Civil Society and Political Reform in Lebanon and Libya

Transition and constraint

Carmen Geha

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Lebanon and Libya have undergone critical political events in recent years. However, demands for reform from civic institutions during these transitions have not led to concrete political decisions.

Civil Society and Political Reform in Lebanon and Libya reveals the deeply-entrenched historical patterns and elements of continuity that have led to path-dependent outcomes in the political transitions of both countries. Motivated by personal experiences as an activist in Lebanon, the author draws together a wide range of data from participant observations, nation-wide surveys, interviews and focus groups in a careful analysis of two civil society-led reform campaigns. The study demonstrates how the combination of weak states and power-sharing agreements marginalises civic organisations and poses institutional constraints on the likelihood of reform.

Written by an active participant in the political events discussed, this book offers new insight into two countries that present comparable and informative case studies. As such, it is a valuable resource for students, scholars and policy-makers interested in civil society, politics and reform in the Middle East and North Africa.

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Preface

This book is an inquiry into the challenges to the role of civil society in political reform during and after political transitions. The major question this book addresses is: how do institutions and institutional dynamics constrain political reform during a transition? The book examines why demands for reform by civil society organisations in Lebanon and Libya were not translated into concrete political decisions taken by regimes during a transition period. My research suggests that the combination of weak states and power-sharing agreements marginalises civil society organisations, and poses institutional constraints on the likelihood of reform. The book is based on original contemporary research about events and reform trajectories in Lebanon and Libya, with a focus on the demands and strategies employed by activists during periods of transition.

Lebanon between 2005 and 2010 and Libya between 2011 and 2013 underwent critical political events but subsequently did not adopt political reforms despite demands by civic organisations in two main areas: the electoral system in Lebanon and the constitutional process in Libya. An assessment of these two civil-society-led reform campaigns reveals deeply entrenched historical patterns and elements of continuity that led to path-dependent outcomes during both transitions. By utilising theory and concepts from the perspective of historical institutionalism, the book identifies the factors behind path-dependent outcomes in Lebanon and Libya.

The main objectives of this book are three-fold. First, the book explains how institutions and institutional dynamics constrained the potential for political reform in both Lebanon and Libya's transitions. Second, the book advances the use of the inductive method by developing an understanding of two case studies of civic organisations that attempted to advocate for reform and that were only partially successful in their demands. Third, the book provides a solid empirical basis for analysing the implications of a constrained civil society on the broader political order. I argue that the transitions in Lebanon and Libya were a result of only "partial" critical junctures. The book adopts and builds on the approach of path dependence by offering insights as to how historically inherited institutional dynamics from a previous regime can cause junctures to be only "partial" critical for the broader political order. The main sources of data come from participant observations, a nationwide survey, interviews and focus groups with two organisations that tried to advance electoral reform and constitutional development.

The decision to conduct and publish this research was motivated by personal ties, experiences and the stories from which I learnt. For years, as an activist, I tried to change the political system in Lebanon. I have helped organise, lead, and fundraise for, protests, civil society organisations, campaigns and movements that sought to change the electoral system, end the sectarian polarisation, ensure women's rights, enact civil marriage, ensure access to information, and safeguard media freedoms in Lebanon. Without doubt, all these groups failed to influence the reform process in Lebanon. By 2009, after co-leading the national operation to monitor the parliamentary elections, it became clear to me that civic activism was not enough. In 2011, I had the privilege of meeting Libyans who made me believe again that civilian-based struggles can create political change. But it was not too long before they too lost hope and realised there was something missing. I became profoundly anxious to understand what we and they were doing wrong.

It gradually dawned on me that I was becoming pessimistic about the ability of ordinary citizens to create meaningful change in the political system. It is true that after the Syrian regime withdrew from Lebanon, citizens could organise themselves in "civil society" but they remained confined within a sectarian system and a sectarian representation that evades meaningful political reform. Of course, in Libya after 2011, citizens could for the first time organise, campaign and express their voices but this was merely a partial rift from the past. Libyans were still unable to influence the political process, to escape violence, and to overcome historical tensions that have sadly now escalated into a full-on violent conflict. Realising that it was not only my fellow Lebanese activists and I who were disappointed, but that Libyans who had just brought down a dictator were also disappointed made me increasingly interested in the question of what constrains civil society and hinders political reform in these polities.

This work is therefore a result of a profound personal experience and of the trust that Libyan activists showed in me during my research. At least three activists who contributed to this research in Libya have been assassinated for their work on political reform and civic participation. While academics still struggle to define "civil society" and its role in the region, it is my assertion that the people on the ground in both these countries are already performing key functions of civil society, including advocating for political reform, however challenging and disappointing it may have been thus far.

I therefore dedicate this work to those who have already left us and to those still with us but who have lost hope in change. I hope that the "reality" check that this book offers does not deter us from finding new ways to influence politics in the region. I do not know much but I do know what does not work – because I understand why it does not work. This is a book, therefore, about why we should not keep doing what we are doing in the same manner that the Forum for Democratic Libya and the Lebanese Association for Democratic Elections have done in the past.

This research would never have stood a chance to see the light of day had it not been for friends and partners who opened their hearts and minds to trying to change their countries. In particular, I am indebted to: Dr. Frederic Volpi for giving me the courage to learn the skill of writing and the commitment to succeed in my PhD; Dr. Michelle Burgis for continuous feedback on drafts and advice on becoming an academic; Amr Ben Halim who granted me the honour and privilege to accompany his passion and work in Libya; the late Dr. Randa Antoun, bless her soul, for inspiring me to reflect and learn from mistakes; all my dearest partners at Beyond Reform & Development who helped me collect data and analyse it and remain inspired (Gilbert, Natalia, Lara, Omar, Nabil, Marwa, Najat); and my best friends who helped me stay focused in times of joy and crisis (Oriana, Heidi, Sally, Tania); Hicham Jadaoun for his time and advice on all matters quantitative in this book; the unique Nadim Shehadi for challenging all my ideas; and to Dr. Bassel Salloukh and Dr. Tamirace Falhoury for their relentless feedback on methodology and concepts; and lastly my family for Aldona's undying encouragement and Poliana's love and secular club activism as an inspiration, and forever my gratitude to Said and Therese who were my first encounter with resisting sectarianism and keeping hope alive...

By the time this book goes to press, Lebanon may have undergone another critical juncture. In the summer of 2015, the heat wave, electricity cuts and garbage crisis sparked massive anti-sectarianism and anti-corruption protests in Beirut. In an unprecedented manner, hundreds of thousands of citizens took to the street blaming the political class for being unable to find a solution to mounting piles of garbage and linking this failure directly to a corrupt sectarian system. It remains to be seen whether this movement will be able to overcome the challenges that my research identifies, namely the inability to mobilise sufficiently and the inability to sustainably put pressure on politicians. In tandem, violence has spread across Libya and, with the presence of Islamic State affiliates, widespread terror and political deadlocks have closed off the chance for any form of independent civic and political activism. While the UN in Geneva attempts to reconcile the Libyan factions, it remains to be seen whether or not civil society will benefit from another potential critical juncture in Libya. What is for certain is that moments with heightened possibilities for change are rare and precious, and we, as activist-academics, must not only learn from our mistakes but also share these insights with as many as possible. This thirst to document our story in Lebanon and Libya came first and foremost from the desire to share these insights with the ultimate hope of the next book being about how to overcome path dependence and what in fact could be successful strategies for civil society and political reformists in the Arab region.

1   Introducing the journey

> The complete realist, unconditionally accepting the causal sequence of events, deprives himself of the possibility of changing reality. The complete utopian, by rejecting the causal sequence, deprives himself of the possibility of understanding either the reality which he is seeking to change or the process by which it can be changed. The characteristic vice of the utopian is naivety; of the realist, sterility.
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> E. H. Carr[1]

1.1 The researcher in me: the research question and the aim of the book

The chance to study Lebanon and Libya has led me to remain a utopian, grounded in some form of realism to which the findings in this book point. This chapter explains the main purpose of the book. Lebanon between 2005 and 2010 and Libya between 2011 and 2013 underwent critical political events but subsequently did not undergo political reform in two key areas: the electoral system and constitutional order. Instead, similar features of a centralised state system, sectarian or tribal forces, and weak responsiveness to civil society on the part of the state prevailed, indeed continued from the time before each of these critical events. The events described here as mass uprisings did contribute to an opening up of the public sphere and an increase in public participation, but not to reforms that could affect the broader political order.

This book is about civil society and political reform in the Middle East and North Africa (MENA). The major question it addresses is: How do institutions and institutional dynamics constrain political reform during a transition? The question was inspired from the disappointments I felt as an activist in Lebanon for many years, and which later resounded with Libyan activists I met during Libya's 2011 transition. I examine the transition as an event accompanied by changes in the regime, such as mass citizen mobilisation and social upheaval. Transition here is seen as a temporal incident used to distinguish a historically significant moment that marked a break in past practices; transition is not used as a normative prediction of change in a predetermined direction.[2] In studying the constraints on political reform in the MENA region, two key questions arise:

What institutional characteristics make political reform challenging in Lebanon and Libya? Why are the demands of civil society actors unable to influence political reform in both countries? In addressing these questions, I will explore those elements of continuity that create path dependence and pose a constraint on the reform process (and outcomes) in the areas of elections and constitutional development.

In this first chapter I explain the main questions that drove my research. The chapter comprises four parts. Initially, the chapter will present the context in which the questions are based. Next, the chapter introduces the two countries to be studied, highlighting some distinctions and similarities that will be explored. The third section presents key concepts that make up the theoretical framework. I will then present the hypothesis and conclude this chapter with an overview of the methodology and conceptual approaches. The main purpose of this book is to answer the above questions by proposing a framework for studying the challenges that hinder reform during political transitions in the MENA region. This framework builds on the literature on historical institutionalism and path dependence in comparative politics. The framework explicates the limitations on reform and shows how events that might have been "critical junctures"[3] in the political order failed to result in critical change because of particular institutional constraints. In this book, "critical junctures" are historical moments where there is a heightened possibility of political change.

I posit that my analysis of political reform can broaden this debate by showing the ways in which history matters and what path-dependent explanations we can attribute to the challenges of reform during transition. In this way, we can explain how transition results only in partial changes to the political order due to constraints on the reform process. I build on the existing interpretations and models of the path dependence model[4] to explain the shortcomings of the reform process in both Lebanon and Libya and to further the debate by adding new elements to the typology of path-dependent explanations. I selected cases from which particular elements of continuity (from pre- and post-juncture) emerge as constraints emanating from the role of institutions and the actors concerned with political reform. Although there is a selection bias, as both countries exhibit challenges to reform, the added value of this work is in deepening our understanding of these challenges, understanding that could be applied to the study of other countries. There is also a profound first-hand experience in both cases that allows an in-depth reflection of how historical and revolutionary elements of continuity limited reform in both countries.

Elements of continuity created a condition under which institutional mechanisms make political reform very difficult. A study of the institutional characteristics and mechanisms reveals how and why political leaders did not adopt political reform during transition. Reform is therefore more likely when there are less elements of continuity, and vice versa, the presence of elements of continuity tends to limit reform. Fewer elements of continuity would therefore, in theory, indicate a higher probability of a fully critical, as opposed to only a partially critical, juncture. This work's innovative contribution to knowledge is

three-fold: first, the illustration of path dependence in the MENA region and the advancement of explanations of path dependence. Second, I will show empirical evidence of the ineffectiveness of civil society organisations in political reform during transition. The third contribution is the conceptualising of political reform by examining the relations between institutions and civil society actors. The central argument around partially critical junctures is explored by assessing the ways in which civil society activism changed, but remained ineffective, in influencing political reform.

This area of research remains under-studied and under-theorised in the MENA region and overshadowed by normative accounts of transition and democratisation, particularly after the uprisings dubbed as the "Arab Spring".[5] There is little known about how institutions reinforce path dependence in the way state institutions address demands for reform. My model depicts constraints stemming from the historical features of state institutions that do not encourage political leaders to adopt reform during transition. In the specific cases presented, the political leadership does not appear to have an interest in, or capacity to, carry out the proposed reforms of civil society actors. There are few, if any, studies that provide a theoretical framework for political reform in the MENA region backed up by contemporary empirical evidence. At the time of writing there is also no account comparing Lebanon and Libya in a way that furthers understanding of the constraints during a transition. By studying the challenges to these reform processes we are better able to answer why political transition may not bring about political change. We are then also able to understand this as a specific form of path dependence, explained in terms of identifiable elements of continuity that the cases of Lebanon and Libya exhibit. These elements are referred to later as the intricacies of Lebanon's power-sharing sectarian system and of Libya's stateless society.

I argue that the reasons that political transition and mass uprisings in Lebanon and Libya were not accompanied by a change in the political order are found in the institutional make-up of these polities. Political order here is defined as the overall system governing citizen-state relations, political representation and political processes. The persistence of a specific form of political order, I will show, is due to both countries exhibiting path-dependent outcomes that constrain political reform and limit the potential for change. In both countries, political institutions could not overcome historical traditions of a generally weak state system, which limited the agency preferences of the political actors who rose to power during transition and in turn marginalised the role for civil society to play. As the cases will show, political actors evaded institutional and political reform and brought back historical features that prevailed before the critical juncture. For Lebanon, this is evident in the tradition of sectarian power-sharing that constrains the potential for electoral reform; a tradition that sectarian leaders reinforced after the critical juncture. In Libya, this is found in the legacy of statelessness that Gadhafi left behind, which constrains the process of the development of a new constitution, a legacy that the transitional period reinforced at the expense of political reform. I trace the institutional developments that took

place after the colonial periods of both countries (the 1940s for Lebanon and the 1950s for Libya) and focus more specifically on the dynamics after Lebanon's partially critical juncture of 2005 and Libya's partially critically juncture of 2011.

The paradigm of path dependency can be used to reveal underlying endogenous political dynamics in the fields of comparative politics and international relations. While not dismissive of exogenous factors and varying regional and international forces in both cases studies, the thrust of this research lies in delineating internal constraints on reform. The endogenous approach is very much needed at the time to understand the MENA region in the wake of the Arab uprisings. In other words, the approach gives scholars something new to consider that is country-specific and it gives civil society actors something new to focus on. This is why this book speaks to both scholars and practitioners of civil society and reform in the region. The endogenous factors here are explained both in terms of the path-dependent mechanisms and path-dependent outcomes that persisted after a specific critical juncture. This is why I refer to these instances of mass uprisings as having been only "partially" critical.

The analysis of political reform in this book theorises the ways in which historical institutional arrangements reinforce political choices that maintain elements of continuity from pre-transition and post-transition. Political reform is seen in this book as any attempt aimed at enhancing the effectiveness and the functionality of political institutions viewed from a structuralist perspective.[6] I show how *new* options for reform are settled using *old* methods of decision-making. In the long-run, such methods create perpetual cycles of corruption, violence and oppression that are familiar to both Lebanon and Libya.

Both countries are examples of weak states[7] with a history of varying levels of authoritarianism, centralisation of power, and marginalisation of civil society. The selection of these two cases is meant to encourage future research on cases and countries that exhibit similar characteristics; such findings can feed into explaining why mass uprisings did not lead into meaningful political reform in the region. For the purpose of this book, the comparison is geared towards generating a theory of political reform that explores the dynamics and influence of path dependence on political order in the MENA region. The use of path dependent arguments and historical analysis is not entirely new to the region. In Lebanon, path dependence was proposed by Paul Kingston as a driver behind the reproduction of sectarianism and the cause of various constrains placed upon the advocacy efforts of civil society.[8] In Syria, Raymond Hinnebusch brings back the discussion of historical features and path dependency in his analysis of the uprising.[9] Daniel Allen examines the hypothesis that due to path dependence, externally imposed state-building fails or succeeds due to institutional factors, "the recognition of institution-related variables enabled through the path dependence lens can increase the extent to which nation-building success can be predicted under these circumstances…"[10]

The main argument I make is that challenges to reform are a symptom of three major elements of continuity in Lebanon and Libya, which are: weak

states, power-sharing agreements, and an ineffective civil society.[11] This work does not argue for direct causality, nor do I contend that historical events necessarily dictate a particular outcome. Instead, my main contention is that we must deconstruct the ways that political reform is perceived by searching for the institutional elements and dynamics that constrain such reform. Reform is defined as any political, policy or procedural change aimed at increasing the effectiveness of the political order. It is not based on the uni-linear assumptions of modernisation or development but merely intended to identify an effort undertaken by political actors to change the political order wholly or partially. For instance, demands for proportional representation are an attempt at reforming the electoral system. And similarly demands for citizen participation are attempts are reforming the constitutional process.

My perspective is in line with Pierson's assertion that path-dependency arguments can "provide an important caution against a too easy conclusion of the inevitability, "naturalness", or functionality of observed outcomes".[12] The approach helps scholars to avoid looking at political outcomes in Lebanon and Libya as "naturally" non-democratic or providing explanations of how conflict is inevitable in these societies. Instead, my concern is with understanding why political institutions are unable to engage citizens in the constitutional process in Libya and why political leaders are unwilling to reform the electoral system in Lebanon. This allows theories about political reform to become deeply rooted in the local context and the local actors concerned with this reform, rather than situating political change in an external set of expectations or predictions about the future.

Political reform is embedded in a set of institutions and actors that presumably have a role in promoting and executing this reform. Such reform is therefore susceptible to the degree of institutional readiness and to agency preferences that can support or constrain it. In this sense, reform can be viewed as a decision-making process taking place both within and among institutions. Agency preferences can bring about the political will and political support for reform, while institutions signify the capacity to implement a reform. Institutions, formal and informal, create the framework, norms and standards of behaviour that allow for or that limit change. In this book, the decision-making regarding reform is largely perceived through Simon's "Bounded Rationality" explanation, which posits that human beings have limited information, limited capacity to process information, and tend to satisfy rather than to maximise.[13] Within this viewpoint, political reform tends not to be drastic but incremental as Lindblom would call it, a process of "muddling through".[14] The constraints on the decision-making process further indicate that junctures, under the conditions present in Lebanon and Libya, have only been partially critical.

For the two case studies in this research even the possibility of incremental change is questionable because there are patterns reproducing the institutions that strongly constrain even incremental change. This book will identify the ways in which civil society and regime preferences diverge on issues of reform during transition. In both junctures, civil society's preferences were in favour of

reforms but the political and institutional response to such demands limited civil society's influence within the process. Here, the relevant institutions are state and political institutions and the relevant actors are political decision-makers and civil society activists. The case studies will show that the options available to decision-makers about reform remained highly path dependent in the cases of Lebanon and Libya and, as such, limited the potential for critical moments to be turned into critical junctures. This means that any reform that favours a new type of representation or relations between citizen and state has a dismal chance of success because institutions have deeply rooted practices that have become difficult, if not impossible, to change.

The findings from my two case studies would also be of interest to scholars in the fields of democratisation and political transitions. While this book is not concerned directly with categorising a reform as democratic or non-democratic, its underlying premises can be used to describe why Lebanon and Libya exhibit more undemocratic than democratic features. By "democratic features" I mean those that Schmitter and Karl defined as procedures of free and fair representation, open participation of citizens, and accountability in the public realm.[15] But the prediction of tendencies for democratic or non-democratic features is beyond the scope of this work. I am more interested in showing the limitations of two key reforms that were constrained in the cases of Lebanon and Libya and proposing that the reasons for this evasion are found in elements of continuity in the institutions concerned with the reform process. More specifically, I employ the functionalist approach[16] to arrive at an explanation of how political institutions are not serving political reform but hindering transition towards a more effective political order in Lebanon and Libya. The perspective of functionalism answers the questions of how institutions emerge and why they are sustained in terms of the functions they perform.[17] For Lebanon and Libya, the functionalist approach helps in clarifying the specific effect of the absence of crucial political reform in both countries.

1.2 Why Lebanon and Libya?

Lebanon and Libya can be treated as examples of a more general pattern in the MENA region, where instability, facets of authoritarianism, and social fragmentation continue to be persistent. They are also cases exhibiting partial signs of political change that can further our understanding of tensions between tribal or sectarian forces and the processes of state building. Research into the Lebanon case preceded research into the Libyan case. From the Lebanon case, the variables of weak state, power-sharing and ineffective civil society emerged which later resonated with the case of Libya after the fall of Gadhafi's regime.

The countries are distinct yet comparable. Both countries have in common the presence of minority groups with sub-national identities that make up their demographics. In Lebanon, a sect constitutes the major religious group or sub-group that requires representation in the political order. Lebanon has not undergone a census since the 1930s but estimates of sectarian communities point to

the presence of: Muslims who are divided between Sunnis and Shiites. Sunnis make up the largest religious group, accounting for 27% of the Lebanese populous.[18] Shias also make up 27% of the population, which makes the Muslim population greater than 50%, without considering the Druze population.[19] The Druze account for 5.6%[20] of the citizens of Lebanon, making them a sizable minority. Christians, the other half of the sectarian community in Lebanon, consist of various denominations with different political affiliations. Maronites, the largest of the Christian communities, encompass 21% of the Lebanese population.[21] Greek Orthodox make up the next largest number of Christians in the Lebanese population, with current estimates putting them as 9%[22] of the Lebanese public.[23] The remaining population consists of various Christian groups, including a significant Armenian population.

Libyan demographics show sizable minority groups that comprise tribes and ethnic minorities. Libya has a diverse population of Arabs and Berbers (or Amazigh), which encompasses 97% of the total population. It is estimated that the Amazigh constitute 236,000 to 590,000 people in Libya (4–10% of the overall population. Libya's society is also highly tribal. Libya contains over 100 tribes, with 30 powerful and substantial ones. The Gadhafa tribe (Gadhafi's tribe) is small and not as significant as other major tribes in the state. Libya's largest tribe is the Warfalla (population of nearly 1,000,000), who have historically disapproved of Gadhafi's regime.[24] The Magarha is the second largest tribe in Libya, followed by the Zuwayyah tribe, which is mostly rural and controls great swaths of oil-rich land.[25] Other significant tribes from the east include the Misrata, who are considered the largest tribe in east Libya. In both Lebanon and Libya, minorities or sects, tribes and ethnic groups have provided the mechanisms for political participation and representation that marked the historical junctures of state formation, revolution and political development.

The cases of Lebanon and Libya are significant geographically; one is in the Middle East (Lebanon) and the other in North Africa (Libya). The cases are also significant academically as Libya was historically authoritarian or autocratic and Lebanon is considered more of a consociational parliamentary democracy. The differences in these types of political systems make the comparison all the more insightful to practitioners and researchers with an interest in the MENA region. The differences also further the application and expansion of path dependency to two comparable but distinct contexts. For instance, the type of communal power-sharing order in Lebanon is based on sectarian representation and has been solidified for more than five decades, whereas in Libya, at the time of writing, a new power-sharing agreement is still emerging and comprises tribal and military representatives who have chosen to isolate former pro-Gadhafi supporters, and is still less solid than that of Lebanon. Civil society organisations are ineffective in both contexts however, as will be assessed in the case studies in Chapters 4 and 6.

The study of Lebanon examines electoral reform efforts between 2006 and 2010 by assessing the experience of the Lebanese Association for Democratic Elections (LADE) and the Civil Campaign for Electoral Reform (2005–2009),

two key civil society organisations. LADE was established in 1996 in Lebanon but was only overtly operational after 2005. It was also privately funded at its start and then received funding from United Nations agencies, European Union and American donors to expand those of its activities that focused on electoral reform across Lebanon. The failure of reforming the electoral system is relevant here because elections are a key framework in organising relations between citizens and state, representing citizens, and appeasing political tensions.

The study of Libya examines the process of constitutional development between 2011 and 2013 by assessing the experience of the Forum for Democratic Libya (FDL) in leading constitutional dialogues across the country (2011–2013). FDL was established in 2011 by Libyan activists, intellectuals and members of the diaspora. It was funded privately by its founding members at first and then it obtained funding from the United Nations Development Program to continue its activities across Libya. FDL's main focus in those years was on constitutional dialogue and citizen participation in that process. The constitutional development case study is relevant to this work because constitutions are a key part of the legal framework in organising the relations between citizens and state, representing citizens, and appeasing political tensions. Constitutional development also requires dialogue and consensus, which are both key variables inhibiting the process in Libya thus far.

The selected civil society organisations are important for my research questions in three ways. Both these organisations emerged after a critical juncture. They benefited from a window of opportunity created during the uprisings in Lebanon in 2005 and in Libya in 2011 and were able to mobilise citizens and articulate demands for political reforms. Both organisations successfully engaged thousands of people in their advocacy activities, demanding reform from politicians. Both of them were partially successful in pushing for political institutions to formally recognise and address their demands. But the organisations also fell short of generating sufficient pressure for reform to be adopted. Both FDL and LADE sought to create platforms that were cross-sectarian, cross-regional and cross-ethnic. The organisations' activities are also examples of political action that was non-partisan, and they show how movements or organisations that are not part of historically powerful institutions are less effective during political transitions.

The Libyan case is a quandary for the path-dependence approach. It remains to be seen whether Libya will develop a new and more open path for its new constitutional process or whether it will revert back to a more centralised and less inclusive process similar to the one it had in the past. At the time of writing, violence has escalated among Islamic armed factions, federalists in the East, and pro-Army-General Haftar in the West. The constitutional process has been halted since the November 2014 decision by the Supreme Court to annul the elected General National Congress, creating deep divisions and fights over the legitimacy of the constituent assembly. On the other hand, Lebanon – having held frequent elections since 1943 – is also a quandary for the path-dependence approach and for a theory of failed political reform. The Lebanese parliament in

2013 postponed and cancelled the parliamentary elections, leading to the utter institutional and security stalemate that the country is facing; in lieu of currently hosting over 1.2 million Syrian refugees. Both the cases of the Lebanese elections and the Libyan constitution should be given close examination for their ramifications for path dependence and reform failure, especially as the two issues are still highly relevant to the future political orders of these countries.

1.3 Definitions and key concepts

This section defines five key concepts that are relevant to the proposed framework on political reform. These concepts are historical institutionalism, path dependence, critical junctures, agency, and political transition. The concepts are particularly significant to this research as they create the building blocks for the next section, presenting the framework for political reform in the cases of Lebanon and Libya.

Historical institutionalism

Historical Institutionalism is a paradigm for studying political evolution that focuses on the institutions that produce and reproduce certain decisions, norms, and political outcomes. The paradigm is based on the assumption that institutions carry significant historical features that articulate the interests and values of certain groups. The paradigm of "historical institutionalism", which emerged in the 1990s, does not describe a single theory or body of literature, as Paul Pierson and Theda Skocpol explain.[26] Instead, it encompasses a school of thought captured by a wide range of authors who believe that "history matters" and who attempt to show how it relates to specific situations and events. Some of the commonalities among these authors is that they study how institutions evolve and analyse the combined effects of institutions and the processes that led to their evolution.[27] One of the core claims of historical institutionalism is that institutions do more than channel policy and structure political conflict; the definition of interests and objectives is created in institutional contexts and is not separable from them.[28]

Within comparative politics, this approach has been labelled as "new institutionalism" and is associated with comparative political economists such as Kathleen Anne Thelen, Frank Longstreth, Sven Steinmo, Peter Hall, Rosemary Taylor and Theda Skocpol. According to Thelen, Longstreth and Steinmo, historical institutionalism is an attempt to illuminate how political struggles are mediated by the institutional setting in which they take place.[29] Institutions, according to Hall's widely cited definition, include formal rules, compliance procedures and standard operating practices that structure the relationship between individuals and various units of the polity and economy.[30] Any political process or arrangement therefore can fall into the category of institutions, whether it is formally state-controlled and structured or whether it is loosely structured and non-state organised.

Historical institutionalism also focuses on the relational nature of institutions and how they interact with each other. As Immergut asserts, more important than the formal characteristics of either state or social institutions per se is how a given institutional configuration shapes political interactions.[31] It is therefore useful to apply this in the analysis of relations between civil society and the state or between citizens and a political process such as elections. The historical institutionalism perspective also helps reveal how institutions responded to demands for reform by activists during the transitions in Lebanon and Libya. Because of its emphasis on institutions as a constraint on political decision making, the historical institutionalist approach will be useful in explaining why reform did not take place after an uprising.

The historical institutionalists' point of departure is to look at institutions and study how they are affecting political behaviour and political outcomes. The context of decision-making for the historical institutionalists is another key dimension used to explain political outcomes using this model. According to Steinmo and Thelen, historical institutionalism understands politics as a result of a matrix of institutions "in which individuals manoeuvre, they are motivated by a complex mix of sometimes conflicting preferences".[32] This will be made evident in the cases of electoral reform and constitutional development, where political actors faced conflicting demands, and the choices are often being between changing or maintaining a status quo (reform and old systems). In particular, during political transitions in both Lebanon and Libya, political actors were faced by demands for greater inclusion for example, but at the same time can be confined to an institutional set up that cannot accommodate inclusion. Here, the attempts at political reform will oscillate between demands for citizen representation on the one hand, and the stability of the regime on the other hand, which causes the reform process to be limited at best.

Path dependency

Path dependence is a central concept in the recent theoretical investigation of historical institutionalism. The literature on path dependence reflects developments in the traditions of economics, sociology and, more recently, political science. The concept of path dependence emerged from economic literature in the 1980s and was then applied to the study of politics from the 1990s onwards. Conceptually, path dependence results from a state of historical institutionalism that is affected by mechanisms that produce and reproduce increasing returns. The concept of increasing returns means that once a decision is made it leads to long-term effects that reinforce the impact and implications of that decision. Theoretically this means that there is an institutionally constraining historical factor (or factors) that limit action or decision-making, forcing them into path-dependent outcomes. Path dependency posits that political decisions accumulate over time, gain institutional shape (be it formal or informal), and restrict options for future policy-makers.[33] To say that an outcome is path dependent signifies that a political result or decision is highly affected by a path that was adopted

before the decision had to be made. Path dependency also means that decision-makers have less power to make new decisions in circumstances that are highly affected by their choices and structures that were in place prior to their making the decision.

Path dependence is concerned with the dynamism of cause and effect, where institutions and political actors are moving in a series of influences brought about by crucial decisions and institutional arrangements from the past. According to March and Olsen, political outcomes are a function of three primary factors: the distribution of preferences (interests) among political actors, the distribution of resources (powers), and the constraints imposed by the rules of the game (constitutions). Path dependence treats these as endogenous factors limited by the very institution that determines what is possible.[34] Pierson proposed one of the most cited explanations of path dependence in the study of politics where he posited that path dependence is a social process grounded in a dynamic of increasing returns.[35] Path dependence is therefore active in the social milieu of agents (actors) and it is heavily influenced by past decisions that are influencing a current situation (increasing returns of choices in strategic moments in time). Of great importance to my argument that critical junctures in Lebanon and Libya did not lead to significant political reform is Pierson's challenge to the traditional conceptualisation that large causes necessarily lead to large outcomes, while small causes necessarily lead to small shifts in outcome.

But it was James Mahoney who provides a rigorous and empirical application of path dependence in political science by studying the processes of political and institutional development in Central America.[36] Mahoney asserts that path dependence is a lens through which observers can understand why the cost of change can be very high. Path dependence explains why the probability for change can be very low in a specific institutional context. In this view, a great deal of importance is given to certain decisions regarding politics and institutions, because the potential for reversal is very low after a path is selected. For Mahoney, choices lead to self-perpetuating institutions in the same manner that economic costs reinforce certain technologies in the marketplace. Path dependence is very useful when studying why elements of continuity persist in the MENA region despite regime change and how certain political processes – such as power-sharing – become very difficult to reverse once institutionalised because the "cost" of change is very high. The case studies in this research will contribute to this debate by providing explanations about how decisions made in the past and practices put in place at a certain time have contributed to the failure of reform in Lebanon and Libya.

Critical junctures

Scholars of comparative politics have long been interested in critical moments and in the causes and implications of critical change. Critical moments are unforeseen events that destabilise an existing social and/or political order. In Lebanon, it was the withdrawal of the Syrian regime after 30 years of political

control, during which time the state was under massive pressure from internal and external sources. In Libya, the recent critical moment was the ousting of Colonel Muammar Gadhafi who had exercised total control for 42 years. Both these moments were then accompanied by a series of events in the political sphere that marked change from past practices and policies. Critical junctures are expected to create deep and lasting change in the political order. The notion of critical junctures or "conjunctures" is defined by Pierson and Skocpol as the effects of interaction between distinct causal sequences that become joined at particular points in time.[37] Junctures are critical because they place historically long-standing institutional arrangements on new paths or trajectories, which become very difficult to alter.[38] Critical junctures destabilise a temporal and institutional equilibrium, in other words they create a "jolt" in a system or a process that becomes difficult to reverse or to influence.[39] In the language of historical institutionalism, this deep change leads to new "mechanisms of repro-duction", which carry and often amplify the effects of a critical juncture through time.[40] In other words, a change that leads to an institutional and political domino effect is considered as influenced by, or signifying a critical juncture. Scholars of historical institutionalism consider critical junctures to be new choices with lasting impact because they "close off alternative options and lead to the estab-lishment of institutions that generate (new) self-reinforcing path dependent processes".[41]

The most prominent definition of critical junctures was suggested by Capoc-cia and Kelemen:

> In the context of the study of path dependent phenomena, we define critical junctures as relatively short periods of time during which there is a substan-tially heightened probability that agents' choices will affect the outcome of interest. By relatively short periods of time, we mean that the duration of the juncture must be brief relative to the duration of the path dependent process it instigates (which leads eventually to the outcome of interest). By "sub-stantially heightened probability", we mean that the probability that agents' choices will affect the out-come of interest must be high relative to that probability before and after the juncture.[42]

Similarly, I will suggest that the probability of reform is affected by the prob-ability that agents' choices will change after a critical juncture; in the case studies, agents' choices remained unchanged causing the institutions to evade reform. A critical juncture therefore would enable political actors to make crit-ical changes in their past policies or stances on a certain reform issue.

Theorists have recently interpreted the Arab uprisings as leading to a series of political, cultural and social changes.[43] Revolutions, regime change, leadership change, cultural transformation, and reform are examples of critical junctures that can disrupt certain political preferences and promote others. Critical junc-tures are therefore a moment of *strategic selection* that creates systemic and lasting change. But while the literature defines the concept well, it does not

explain why change can be limited despite a seemingly critical juncture. Accord-ing to Pierson "arguments about path dependence explain why particular histor-ical junctures have lasting consequences".[44] But this begs the question in the cases of Lebanon and Libya, why did these critical junctures not create "increas-ing returns" in the form of political reforms. In particular, the reforms of the electoral process in Lebanon and the constitutional process in Libya remained largely limited.

The question of agency

Historical institutionalism should not be mislabelled as a deterministic approach. Rather, the study of institutions allows us to examine the relationship between political actors as objects and as agents of history; it is interpretive. The study of critical junctures views agency as part of the patterns of interaction between political processes and the effect of those interactions on institutional outcomes. Steinmo and Thelen also state that "the institutions that are at the centre of historical institutional analyses – from party systems to the structure of economic interests such as business associations – can shape and constrain political strat-egies in important ways, but they are themselves also the outcome (conscious or unintended) of deliberate political strategies, of political conflict, and of choice".[45] Therefore, the concept and potential of agency is given important con-sideration in the study of the path-dependency approach. It is people/agents who will finally sit and decide upon a course of action from a set of alternatives and reform options. This is why the case studies in this research focus on what course agents in civil society and in government chose during a critical juncture. Agents have the ability to encourage and make use of a critical juncture, espe-cially in periods of transition and uncertainty, when they make choices that would otherwise have not been foreseeable. Those agents are the public admin-istrators, the civil society actors, and the political actors whose efforts may or may not have pushed forward a certain reform. Conceptually, if agents did not, or could not, adopt a reform, then in fact they reinforced a path-dependent outcome that led to the juncture being only partially critical during the period of study.

I argue that critical junctures in Lebanon and Libya did not create enough incentive for agents to adopt reforms. Instead, agents were more likely to revert to the old ways of doing things whenever there were strong path-dependent out-comes. Here, agency falls into the traps of routine, using historically designed institutions and mechanisms to deal with political life. This work considers that agency *can be* a source of critical change but *was not* in the cases of Lebanon and Libya. Agency can instigate mass mobilisation, alternative leadership, and a new political culture, individual actions can contribute to heightening the impact of a critical juncture by advancing political reforms. Agents can diffuse new ideas and enable new actors, but in my two cases, structural and institutional constraints limit the potential of revolutionary agency.[46] Without including the concept and dynamism of agency, change cannot be adequately explained.[47]

Empirical evidence in this book will further our understanding of how institutional arrangements practically hamper the opportunity for reform during transition by constraining agency preferences. As a result, I posit that where we can identify elements of continuity, agency preferences tend to be in favour of maintaining the status quo or in support of historical mechanisms rather than novelty. This proposition then calls for a reconsideration of our current understanding of revolution, transition, civil society and democratisation in Lebanon and Libya and countries of the MENA region more broadly.

1.4 The significance of civil society and reform to transitions

As is often the case in the study of politics, political events cause a reappraisal of dominant paradigms, theories and methods. Throughout the MENA region, mass uprisings reinvigorated the debate on regime change, civil society, and transition after years of being dominated by unchanged assumptions about politics in the region. Before the uprisings, and throughout the first decade of the 2000s, much of the research on civil society and political change in the region concluded that the region was exceptionally resistant to democracy and civil society in the liberal tradition.[48] By looking at Arab League member states, for example, before 2011, it was clear that none of the regimes were electorally competitive and, as such, were dismissed as shades of different authoritarian or autocratic systems. Because of authoritarian upgrading, Hinnebusch – among other leading scholars on the region – contended that the regimes were resilient and were adapting to the political context of the 21st century without necessarily moving towards another form of democratic governance.[49] Countries in the MENA region, while being very different, have been hypothesised historically as non-democratic with the exception of some scholarship by Volpi, Anderson, and others that perceive them as semi or pseudo-democratic.[50]

Following the uprisings in 2010 and 2011, the use of the inductive method to generalise theories about regime change became more useful as a country-by-country approach to understand the dynamics of revolution and of political change.[51] Broadly, transition is employed in politics as a movement away from a certain path towards a new path. It is used to describe movement away from or in the direction of (a) a type of regime (authoritarian, democratic or other), (b) a type of political culture (civic, tribal, sectarian or other), and (c) a type of outcome (stability, inclusion, violence or other). The transition paradigm is salient in studies of the Arab region particularly because it provides a useful framework to categorise regimes and compare political outcomes.

According to Schlumberger however, relying on a single use of the transition paradigm will not help determine the direction of transition and the potential for political change in the Arab World.[52] Despite similar historical features in culture, economy and society, the particularities of each of the political systems in these countries merits a careful analysis that would lead scholars to varying conclusions about the nature of political dynamics at present and the prospects of future change.[53] Transitology in comparative

politics applies a set of assumptions, concepts and hypotheses that can explain and predict the path from autocracy or authoritarianism to democracy.[54] But this approach falls short of explaining what makes it possible for these regimes to undergo any form of transition.[55]

But while it is not possible to claim that transition is not taking place in the region; it is also not plausible to state that a full transition has occurred and in a clearly defined direction. This is why I use the term "reform" to refer to specific directions and characteristics of the type of transition that took place after critical junctures in Lebanon and Libya. I distinguish between *transition*, as an overall process of change comprised of several changes in a unified direction, and *reform*, as a specific change in one aspect of the political order. The underlying assumption is that junctures accompanied by reforms that lead to more competitive electoral processes and more inclusive constitutional processes signify a transition into a new form of governance. But if reforms are only partial, it is not possible to conclude that a major transition in one direction has taken place. This book then employs transition as a temporal and political construct.

Another shortcoming of the transition paradigm is in the transmission of normative concepts, such as civil society, as vehicles of a transition. For example, the role of civil society is debated as a driver of democratic transition and a prerequisite for the consolidation of democracy. The proliferation of non-governmental organisations (NGOs), as institutions of a broader civil society, is described as inherently a force for change.[56] From another viewpoint, civil society as a set of actors has been associated with the resilience of autocratic regimes that are able to co-opt, control and even use civil society to promote a regime's interest.[57] In both accounts the transition is perceived as linear and purposeful, while in the new institutionalism approach it is perceived as constrained and more fluid. I employ the term "civil society" not to suggest a specific value or pre-supposed role in politics, but as it is being used and promulgated by the actors themselves to refer to a particular type of social actors. I will then study this activism as illustrative of path-dependent institutional features.[58] The case studies explore why civil society actors were unable to contribute to reforms and how their demands went unmet. The case studies in Chapters 4 and 6 therefore problematise the transition and join other studies that highlight this same conundrum about civil society's role.

Transition, after a critical juncture, is described in this book as a time-bound event or set of events that created some form of change in the way that political order conducts itself, whether it is through a change in political leadership, constitutional arrangement, representation and/or relations between citizens and the state. Transition is used instrumentally to indicate a break in a pattern or a change in an institution that had similar features for a long time. I am interested in explaining why political reforms did not occur during the two transition periods that followed each of the critical junctures in Lebanon and Libya. The timing of the selected reforms in my case studies is the months and early years following a mass uprising or a change in the regime.

1.5 Research design and methodology

The main argument in this book is that critical moments in Lebanon and Libya did not lead to political reform due to mechanisms that kept in place elements of continuity from before the uprisings (described as critical junctures). Assessing how path dependence diminishes from the role of civil society activists during transition highlights new implications within this approach and opens the door for future research and a widening of the applicability of the approach to the MENA region. The conceptual framework of this research is inspired from two seminal works in the study of path dependence and comparative politics. The first is by Mahoney, who offered four explanations in a typology of path dependence and identified the mechanism of reproduction, potential characteristics of institution, and the mechanism of change for each explanation of path dependence. Mahoney's four explanations for why path dependence outweighs the potential for alteration in a system are: utilitarian, functional, power and legitimation. I apply the explanations mainly of power and of functionality to the cases of Lebanon and Libya. The power explanation posits that "an institution can persist even when most individuals or groups prefer to change it, provided that an elite that benefits from the existing arrangement has sufficient strength to promote its reproduction".[59] While the functional explanation says that once events lead to the selection of a particular institution, the functionalist logic can predict self-reinforcing processes.[60]

The second work I build on is by March and Olsen, who claimed that political outcomes are a function of three primary factors: the distribution of preferences (interests) among political actors, the distribution of resources (powers), and the constraints imposed by the "rules of the game" (constitutions).[61] To date, the theoretical approach of path dependence has not been utilised in the cases of Lebanon and Libya and can prove illuminating when the question of why political reform continues to be constrained in both countries is considered. It also helps reveal which institutional constraints are causing institutions to reinforce elements of continuity and limit the potential of change that would typically be brought about by a critical juncture.

I make three central arguments in this book. The first is that agency preferences made at a certain point during a transition reinforce path-dependent outcomes that become locked in the system, making it challenging to reform. My second argument is that elements of continuity constrain political reform when states are weak, when power-sharing is adopted, and when civil society organisations are ineffective. The third argument is that political reform is highly unlikely under these conditions, which cause junctures to be only partially critical.

The framework I use presents three constraints on political reform that comprise the characteristics of path dependence in Lebanon and Libya. These constraints are the mechanisms that limit and reinforce similar agency preferences during a transition, causing institutions to be rigid. Limiting agency preferences on reform issues makes junctures in Lebanon and Libya only *partially* critical.

The elements that persist after regime change create a deadlock whereby the reform process ends up trapped in mechanisms that reproduce old practices and similar political outcomes. Figure 1.1 shows my conceptual framework.

I use the inductive approach that derives empirical evidence from two case studies in Lebanon and Libya. I use the Comparative Historical approach to arrive at explanations that are relevant to contemporary trends.[62] Comparative approaches delineate institutional variables and configurations that help in explaining specific outcomes theorised here to be path-dependent outcomes. The research flows in three phases. First, I present a generic framework that aims at theoretically tackling the questions posed in this research. The framework offers two levels of analysis: (1) the processes of political reform, studied by assessing the engagement of civil society, and (2) the constraints on political reform in both Lebanon and Libya. Second, I use the case study method to provide empirical evidence founded in historical arguments as to why the political institutions in Lebanon and Libya have not undergone political reform in recent years despite experiencing a critical juncture. Third, I conclude with my contribution to knowledge and scholarship about civil society and path dependence in the region.

Research methods

This research utilises mixed methods within the inductive approach to ground the theoretical arguments in solid contemporary empirical evidence. I will answer my research questions using two specific cases and then derive theoretical conclusions from those findings. Although historical institutionalists differ
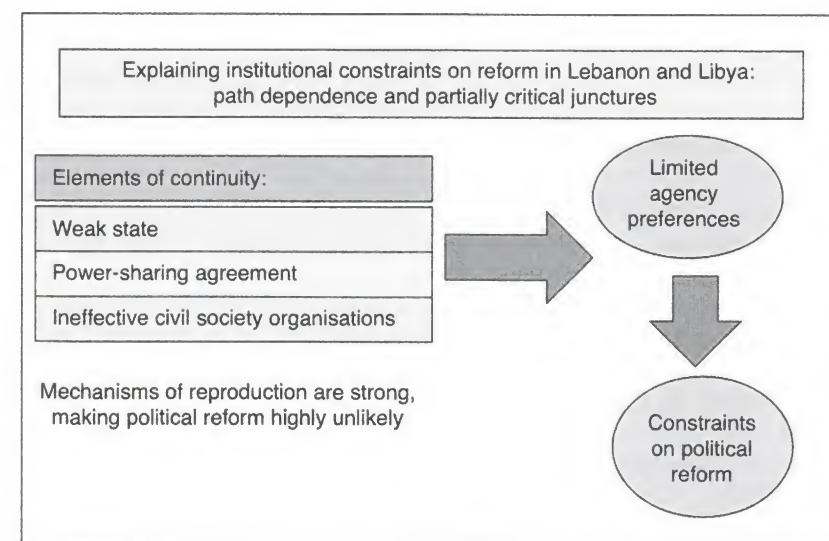

Figure 1.1 Theoretical framework.

regarding their focus, they do share a common theoretical objective, which is to relate institutional variables to a historical context. Thelen, Longstreth and Steinmo explain that, "rather than deducing hypothesis on the basis of global assumptions and prior to the analysis, historical institutionalists generally develop their hypothesis more inductively, in the course of interpreting the empirical material itself".[63] Historical institutionalism in particular is a largely inductive endeavour and also coalesces well with the case study method used in my research.

For each of the case studies, and in addition to the academic literature, three main research tools are used in this study to complement existing literature. The first tool is participant observation from 2005 to 2010 in Lebanon and from 2012 to 2013 in Libya. In the Lebanon case study, I was a volunteer activist observing the 2005 elections and a founding member of the campaign for electoral reform that is assessed in Chapter 4. During the 2009 elections, I spent four months co-leading the election monitoring operation and developing data collection and reporting systems for 3,000 Election Day observers. The case study of Lebanon therefore historically preceded the case of Libya. It was from this case that I was able to identify the three main elements of continuity in research. Visiting Libya after meeting with the founders of the Forum for Democratic Libya following the 2011 uprising I noticed two patterns that I had identified in Lebanon. First, there was a general enthusiasm and belief in the role of civil society and in the potential of reform, which lasted for about a year. But, by 2012, Libyan activists were becoming more disappointed and Libya was exhibiting similar political signs of weak state institutions and power-sharing that were hindering the reform process. It was in early 2012 that I decided to add Libya as a comparative case to this research and to use it for testing the insights gained from the Lebanon case. In Libya, I attended and helped organise multiple workshops, events, seminars and protests by civil society, women's groups and political organisations between 2012 and 2013, specifically on the issues on the constitutional process. I worked closely with the Forum for Democratic Libya in my capacity as a consultant since the group's inception at the start of the uprisings in March and April of 2011.

The second research tool is empirical data extracted from a survey, semi-structured interviews and focus groups with key informants involved in the reform process. The third is content analysis based on official and unofficial reports and news sources. The objective is to triangulate the results and validate theoretical propositions with empirical input, especially since the cases under consideration are relatively new and take place in a dynamically changing political environment. As such, the analysis of the case studies is based primarily on first-hand observation and participation, validated with the data from surveys, interviews or focus group respondents, and then supported with the relevant literature. This is how the three constraints in the framework came about. The key concepts and assumptions are taken from the actors that are promulgating them (for instance, "failure to influence reform" is a phrase repeated by most activists interviewed).

Libya research methods

The novelty of the Libyan case and the fact that little had been done to identify and understand the role of civil society during transition required multiple trips and a large sample of respondents in order to answer my questions. The sample size of participants in the focus groups for Libya therefore is 900, out of which 600 filled out an additional survey on their perspectives about civil society and constitutional development.[64] The Forum for Democratic Libya (FDL) invited participants to take part in the focus groups and assisted in building rapport.[65] FDL used focus group outcomes for their own advocacy campaign and allowed me to document the results. The focus groups were structured in a way that brought together 10–12 participants with a trained moderator, which facilitated a semi-structured discussion on their priorities and understanding of the constitutional process. All opinions were welcomed and documented in an inclusive manner, even those opinions that were contested were listed to allow results to identify "most cited" responses and to identify additional responses.[66] The survey was advertised during the workshops that FDL organised on constitutional dialogue. Participants filled out the survey prior to the commencement of the focus groups and there was not a single case of refusal to complete the survey.

The 30 interviewees in the case of Libya (who were all interviewed in Tripoli, Misurata and Benghazi between 2012 and 2013, with some exceptions that took place by telephone) were decision-makers, government officials, elected members of General National Congress, political party representatives, and civil society activists that my contacts through FDL helped me secure. Table 1.1 shows the timeline and method for my Libya research.

Table 1.1 Summary of data collection

Dates	Method
July 2011–February 2012	Design of Active Citizenship workshops Review of secondary data from workshops
February 2012: first field visit	Pilot survey on concept and role of civil society and constitutional priorities (sample $n=85$)
June 2012: second field visit	Interviews and meetings with civil society representatives
January 2013: third field visit	Interviews and participant observation of launch of constitutional dialogue project
February–May 2013: fourth field visit	15 constitutional dialogues conducted as focus groups ($n=900$) Survey distributed ($n=600$)
July 2013: fifth field visit	Interviews with activists and Members of General National Congress
August–September 2013: sixth field visit	Interviews with representatives of international donors and political parties

Lebanon research methods

The methods applied in Lebanon were different and relied mainly on content analysis of violations to the 2005 and 2009 elections that I helped document by training over 3,000 observers deployed across the country. The patterns identified in the violations and the shortcomings of reforming the electoral law inspired questions for the interviews and focus groups in Lebanon. The sample size of participants in interviews and focus groups from Lebanon is 40 respondents who were directly involved in electoral reform between 2005 and 2010. I approached respondents over the phone as the vast majority of them knew me informally from my experience in coordinating the electoral observation campaign. The interviews were conducted between 2012 and 2014 and were perceived by respondents as an opportunity to have an honest discussion about why electoral reform had failed. Because of my role with LADE in 2005 and 2009, access to quantitative data pertaining to electoral violations was made possible after getting the permission of LADE's Executive Director to study the 2005 and 2009 reports. Having co-led the 2009 monitoring operation I analysed the results of hundreds of violations in the pre-electoral phase and 1,011 critical violations on Election Day in June of 2009.[67] The subsequent 40 interviewees in Lebanon (all took place in Beirut between 2010 and 2013) were with Members of Parliament, leading activists on electoral reform, political party representatives, and protestors calling for electoral reform.

Positioning of the activist-researcher

Although in both cases, participant observation provided me the main source of data and access, my position vis-à-vis the research respondents was different. In Lebanon, gaining access for interview and focus groups was quite straightforward. Most participants in the study knew me or had worked with me personally. They viewed me as an insider with whom they were comfortable discussing "what went wrong" in the campaign and attempts for reform. These interviews were essential in arriving at conclusions such as why advocacy failed after the 2005 juncture. Being familiar with the people and the political context in Lebanon made it easy to schedule and administer interviews. At the same time, I had to ensure respondents that my own assumptions regarding the role of LADE would not influence the way I relayed their responses. I constructed the questions in a neutral manner and asked them to repeat facts and events that they knew I was familiar with. I believe I succeeded in appearing knowledgeable about electoral reform but without influencing their answers.

Conducting field research in Libya was not as straightforward. To gain access to a representative sample, contacts from FDL were crucial. During the research design phase, I helped FDL staff develop a sheet of targeted respondents in every region. This ensured that the sample of participants in the focus groups were representative of the main regions, tribes, ethnicities, as well as the political, militant, and civic groups that were active in the region. The main method

of recruiting participants was through word of mouth. FDL had respected contacts in each of the dialogue locations who made calls and visits to win the trust of influential local leaders, who then proceeded to issue invitations in writing to each participants. Traveling with Libyan activists also from FDL helped put respondents to my survey at ease, many of whom, when they knew the meetings were for PhD research, were very eager to speak up and to answer interview questions. There was an extra level of effort required from me in the Libya case in order to prove that I was knowledgeable of the context, an effort that was not needed from me in Lebanon as I am perceived more of an insider. This is why my pilot survey in Misurata in February 2012 was needed and I used that experience to reformulate some questions and review some concepts.

The main limitations of my research were similar in both Lebanon and Libya. In both cases limited sources of governmental information exist on the two case studies, although there are more documents in the case of Lebanon. This is due both to the fact that the government institutions of both countries do not have an Access to Information law and as such are not bound to document and publish any data. In neither country, for instance, is there any official and accessible registry of civil society organisations nor are voting records of legislators made public. It was therefore necessary to identify "reliable" individuals who could offer information on facts, figures and events. Another key challenge was the timeframe allocated. The case studies are both very contemporary and while they help theorise certain patterns, they both took place in recent years. There is very little historical analysis about elections in Lebanon and even less on the constitutional order in Libya. Where available and relevant, this research is widely cited here. Lastly, the bias in both cases can be felt in the type of answers the respondents gave. Respondents displayed the need to be "optimistic" in their accounts and would tend not to be able to accurately explain the challenges and expectations for reform.

Notes

1 Edward Hallett Carr, Michael Cox, and Michael Cox. *The Twenty Years' Crisis, 1919–1939: An Introduction to the Study of International Relations*. Vol. 1122. New York: Harper & Row, 1964.
2 I am not referring to teleological descriptions of the school of transitology as advanced by Philippe Schmitter and Javier Santiso, "Three Temporal Dimensions to the Consolidation of Democracy", *International Journal of Political Science Review* 19, no. 1 (1998): 69–92 or in Larry Diamond, "Thinking about Hybrid Regimes", *Journal of Democracy* 13, no. 2 (2002): 21–35.
3 Critical junctures are described by Giovanni Capoccia and Daniel Kelemen, "The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism", *World Politics* 59, no. 3, (2007): 341–369 as "relatively short periods of time during which there is a substantially heightened probability that agents' choices will affect the outcome of interest".
4 James Mahoney, "Path Dependence in Historical Sociology", *Theory and Society* 29, no. 4 (2000): 507–548.
5 See for instance Olivier Roy, "The Transformation of the Arab World", *Journal of Democracy* 23, no. 3 (2012): 5–18.

6 The structualist explanations of reform are probabilistic and not deterministic, leaving room for agency and contingency while attributing outcomes of reform to more structural political and institutional constraints.

7 According to Joel S. Migdal, *Strong Societies and Weak States; State–Society Relations and State Capabilities in the Third World* (New Jersey: Princeton University Press, 1988), weak states are those that result from the fragmentation of social control and the heterogeneity of rule-making in society. They are essentially states overridden by strong but fragmented social non-state institutions.

8 Paul Kingston, *Reproducing Sectarianism: Advocacy Networks and the Politics of Civil Society in Post-War Lebanon* (New York, Albany: SUNY Press, 2013).

9 Raymond A. Hinnebusch, "Documenting the Roots and Dynamics of the Syrian Uprising", *The Middle East Journal* 67, no. 3 (2013): 467–474.

10 Daniel Allen, "New Directions in the Study of Nation-Building: Views through the Lens of Path Dependence", *International Studies Review* 12, no. 3 (2010): 414.

11 I explain the elements of continuity in terms of the level of openness to adopting and implementing reform, depicted in terms of the degree to which power is centralised, power-sharing is communal, and civil society is marginalised. These three factors are explained further in Chapter 2.

12 Paul Pierson, "Increasing Returns, Path Dependence and the Study of Politics", *The American Political Science Review* 94, no. 2 (2002): 251–267, at p. 252.

13 Herbert Alexander Simon, *Reason in Human Affairs* (California: Stanford University Press, 1983), 3–35.

14 Charles E. Lindblom, "The Science of Muddling Through", *Public Administration Review* 19, no. 2 (1959): 79–88.

15 Phillipe Schmitter and Terry Lynn Karl, "What Democracy Is … And Is Not". *Journal of Democracy* 2, no. 3 (1991): 114–120.

16 See for instance, John Harsanyi, "Rational-choice Models of Political Behavior vs. Functionalist and Conformist Theories", *World Politics* 21 (1969): 513–538.

17 See for instance John Zysman, "How Institutions Create Historically Rooted Trajectories of Growth". *Industrial and Corporate Change* 3, no. 1 (1994): 244.

18 United States of America Department of State, "Report on International Religious Freedom: Lebanon", www.state.gov/j/drl/rls/irf/2012/nea/208400.htm (accessed 10 October 2014).

19 Ibid.

20 CIA World Facebook. "The World Factbook: Lebanon", www.cia.gov/library/publications/the-world-factbook/geos/le.html (accessed 5 October 2014).

21 Ibid.

22 "Report on International Religious Freedom: Lebanon".

23 Ibid.

24 Peter Apps. "Factbox: Libya's tribal, cultural divisions". *Reuters*, August 25, 2011 www.reuters.com/article/2011/08/25/us-libya-tribes-idUSTRE77O43R20110825 (accessed 3 October 2014).

25 Ibid.

26 Paul Pierson and Theda Skocpol, "Historical Institutionalism in Contemporary Political Science", in *Political Science: The State of the Discipline*. Ira Katznelson and Helen V. Milner, eds. (New York: W. W. Norton & Company, 2003), 693.

27 Pierson and Skocpol, "Historical Institutionalism in Contemporary Political Science", 695.

28 Zysman, *How Institutions Create Historically Rooted Trajectories of Growth*, 244.

29 Kathleen Anne Thelen, Frank Longstreth and Sven Steinmo, *Structuring Politics: Historical Institutionalism in Comparative Analysis* (London: Cambridge University Press, 1992).

30 Peter A. Hall and Rosemary Taylor, "Political Science and the Three New Institutionalisms", *Political Studies* 44, no. 5 (1996): 935–957.

31 Ellen M. Immergut, "The Theoretical Core of the New Institutionalism", *Politics and Society* 26, no. 5 (1998): 5–34.

32 Thelen, Longstreth, and Steinmo, *Structuring Politics*, 5.

33 Adrian Kay, "A Critique of the Use of Path Dependency in Policy Studies", *Public Administration* 83, no. 3 (2010): 553–571.

34 James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life", *The American Political Science Review* 78, no. 3 (1984): 734–749.

35 Pierson, "Increasing Returns, Path Dependence and the Study of Politics".

36 James Mahoney, "Path Dependence in Historical Sociology", *Theory and Society* 29, no. 4 (2000): 507–548.

37 Pierson and Skocpol, "Historical Institutionalism in Contemporary Political Science", 693–695.

38 Paul Pierson, *Politics in Time: History, Institutions and Social Analysis* (New Jersey: Princeton University Press, 2004), 133–167.

39 See Kathleen Anne Thelen, "Historical Institutionalism in Comparative Politics", *Annual Review of Political Science* 2, no. 1 (1999): 369–404.

40 Ibid., 369–404.

41 Capoccia and Kelemen, "The Study of Critical Junctures".

42 Ibid., 348.

43 For an "optimistic" account of the Arab Spring see for instance Francesco Cavatorta, "Arab Spring: The Awakening of Civil Society: A General Overview", *IEMed Mediterranean Yearbook*, Med. (2012): 75–81.

44 Pierson, "Increasing Returns, Path Dependence and the Study of Politics".

45 Thelen, Longstreth, and Steinmo, *Structuring Politics*, 7.

46 See for instance George Lawson, "After the Arab Spring: Power Shift in the Middle East? The Arab Uprisings: Revolution or Protests?" *LSE IDEAS* (London: London School of Economics and Political Science, 2012).

47 Guy Peters, Jon Pierre and Desmond King, "The Politics of Path Dependency: Political Conflict in Historical Institutionalism", *The Journal of Politics* 67, no. 4 (2005): 1275–1300.

48 See for instance Standford A. Lakoff, "The Reality of Muslim Exceptionalism", *Journal of Democracy* 15, no. 4 (2004): 133–139.

49 Raymond A. Hinnebusch, "Authoritarian Persistence, Democratisation Theory and the Middle East: An Overview and Critique", *Democratization* 13, no. 3 (2006): 373–395.

50 See Frederic Volpi, "Pseudo-Democracy in the Muslim World", *Third World Quarterly* 25, no. 6 (2004): 1061–1078, and Lisa Anderson, "Arab Democracy: Dismal Prospects", *World Policy Journal* 18, no. 3 (2001): 53–60.

51 See for instance Lisa Anderson, "Demystifying the Arab Spring: Praising the Differences between Tunisia, Egypt and Libya", *Foreign Affairs* 90, no. 3 (2011): 2–7.

52 Olivier Schlumberger, *Debating Arab Authoritarianism: Dynamics and Durability in Non-democratic Regimes* (California: Stanford University Press, 2007).

53 See for instance the study of varying attitudes towards change and democracy in Amaney Jamal and Mark Tessler, "The Democracy Barometers: Attitudes in the Arab World", *Journal of Democracy* 19, no. 1 (2008): 97–110.

54 Schmitter and Santiso, "Three Temporal Dimensions to the Consolidation of Democracy", 69–92.

55 The transition paradigm gave way to consolidology approaches which allowed scholars to conceptualise the various forms of changes in the political system, often described as movements towards or further away from some form of democracy. See Paul Schmitter and Terry Lynn Karl, "The Conceptual Travels of Transitologists and Consolidologists: How Far to the East Should They Attempt to Go?" *Slavic Review* 53, no. 1 (1994): 173–185.

56 See for instance Amyn Sajoo, *Civil Society in the Muslim World: Contemporary Perspectives* (London: IB Tauris, 2002) or Francesco Cavatorta and Paul Aarts (eds), *Civil Society in Syria and Iran: Activism in Authoritarian Contexts* (Colorado: Lynne Rienner Publishers, 2013).

57 For example Norton acknowledges that civil society puts Arab regimes under pressure from citizens but explains that these regimes are strong enough to co-opt demands and not undertake change in the direction of liberalisation or democratisation. See Augustus Richard Norton, "The Future of Civil Society in the Middle East", *Middle East Journal* 47, no. 2 (1993): 205–216.

58 Chapter 2 defines civil society and proposes a typology from which I identify the actors selected for each of the case studies.

59 Mahoney, "Path Dependence in Historical Sociology", 518.

60 Ibid., 507–548.

61 March and Olsen, "The New Institutionalism: Organizational Factors in Political Life", 734–749.

62 See for instance James Mahoney, "Qualitative Methodology and Comparative Politics", *Comparative Political Studies* 40, no. 2 (2007): 122–144.

63 Thelen, Longstreth, and Steinmo, *Structuring Politics*, 7.

64 Survey results are given in Chapter 6. Respondents were 74.5% male and 25.5% female, 27.7% were from the South, 31.3% from the west, and 41% from the eastern region.

65 Focus group methodology inspired from David L. Morgan, "Focus Groups", *Annual Review of Sociology* 22 (1996): 129–152.

66 Based on Jenny Kitzinger, "The Methodology of Focus Groups: the Importance of Interaction between Research and Participants", *Sociology of Health and Illness* 16 (1994): 102–121.

67 The observation strategy and methodology are in an annex.

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2   Explaining "partially" critical junctures

> The path dependent strategy is premised on the assumption that "history binds" – events at a given point in time limit future outcomes – and that consequently regime change cannot be explained without attention to long-term effects of past events.
>
> James Mahoney and Richard Snyder[1]

2.1 Introduction

Critical junctures that could produce lasting political change have not been accompanied by political reform in Lebanon and Libya. Reforms that would enable the state to sustain lasting changes and promote participation in the political process are still very weak in both countries. For reasons that will be discussed in the case studies, both countries show signs of reverting to past practices instead of adopting reforms that could increase the criticality of Lebanon's juncture in 2005 and Libya's juncture in 2011. This chapter has two main objectives. First, it will examine the key concepts that constitute the elements of continuity in this study, which are weak states, civil society, power-sharing and political reform. Second, it contextualises these elements of continuity in the cases of Lebanon and Libya. This chapter concludes by explaining the constraints on reform and it paves the way for presenting each of the country case studies.

Understanding political reform is not without its bias and its definition can be grounded in theoretical assumptions about governance and about the direction of political change. As such, there may be a normative bias attributing specific norms to the reform process. For this research, I have adopted a functionalist perspective on reform that views it as a process that changes the way the state deals with citizens and with political competition, emphasising the types of decisions taken during transition that have a long-term effect on reproducing path-dependent outcomes. Political reform here refers to changes in policy, law or practice that influence the political order in the direction of greater representation and more open participation. The objective of political reform in this work does ascribe normative values as the research carries an underlying assumption that more representation and participation would be desirable in the cases of

Lebanon and Libya. The investigation of the question of political reform however is functionalist rather than normative. In other words, political reform and civil society are both examined to reveal the extent to which a particular juncture helped the political order shift away from past practices and therefore was capable of leading to a moment of strategic selection, even if only partially. The normativity of greater representation in the case of Lebanon and greater participation in the case of Libya is only regarded as evidence that path dependence limited the potential of the political order to shift from an uncompetitive process in Lebanon and non-participatory governance in Libya. The normativity is used for illustration of the constraints on political reform.

The concept of political reform will be used as one indicator of a juncture in a certain political order. The broader concept in this study adopts reform as any measure taken by a ruling elite to improve the effectiveness of the political system and increase political competition. This claim is normative, in the sense that it attributes a particular value to the reform process and the reform result, but it is also functionalist because it stresses political competition as the main function for reform. In turn, political competition can be the main vehicle for political or regime change, which in itself is an indicator that a critical reform has taken place. From the functionalist perspective, reform is a purposeful political strategy that can make state institutions more effective and make the political process more representative.

The cases of constitutional development and elections are mainly focused on identifying political change and determining elements of continuity, of which competition and public participation are key factors. Therefore, the function of reform, as depicted here, is to enable a more competitive electoral process in Lebanon and a more participatory constitutional process in Libya. This is where the role of the civil society organisations is particularly revealing of specific patterns that remained dominant before and after the critical junctures in both countries. In Lebanon and Libya's case studies, the identified constraints stifled political competition and public participation, a result that was reinforced by the ineffectiveness of civil society actors and which led to a juncture that was only "partially" critical. The chapter further explicates these constraints before moving on to the case studies that present the background and implications of these constraints on the reform process in Chapters 3 to 6. I begin by clarifying the meaning of "partially critical junctures", then move on to the literature streams relevant to the three elements of continuity.

2.2 Uprisings, reform as "potential" critical junctures

This section ties together the issues of reform and revolution in order to argue that similar institutions and political patterns prevailed prior to and after the junctures of 2005 in Lebanon and 2011 in Libya. While uprisings and initiation of reform processes create a "potentially" critical juncture, they may remain stifled by elements of continuity that keep the juncture only partially a moment of transition. These elements of continuity are evident in the inability of state

institutions to execute reforms, the inability of civil society to participate in the process of reform, and the effect of power-sharing on the possibility of reform. This in turn has discouraged political competition in Lebanon and constrained it to sectarian leaders, it has also marginalised the role of citizens in the constitutional process of Libya so far.

The starting point for this research is the period leading up to the mass uprisings that swept Lebanon and Libya in 2005 and 2011 respectively. Each of these moments is seen as a juncture that was accompanied by broader changes in society and politics, but not in the nature of political competition and political participation. Political competition here is defined as the forms in which individuals and groups portray public interest and work towards accessing public office. These forms can be electoral or non-electoral, but in both cases tell us a great deal about the way in which political leadership manages resources and relates to citizenry. In Lebanon, hundreds of thousands of citizens came together to call for the ousting of the Syrian-backed regime, demanding sovereignty and freedom. The years between 2005 and 2010 witnessed an increase in the number of civil and political freedoms, namely those of associations and media. But this uprising did not trigger political reform, particularly in the electoral system, and so electoral competition remained within the confines of sectarian groups, which was similar to the pre-2005 dynamics. In Libya, the 2011 revolution ousted Gadhafi who had governed for more than 42 years, but the newly found freedoms were not accompanied by reforms in the constitutional order in the three years that followed (2011–2013), which I cover in my study. In fact, my research on constitutional dialogues will reveal deeply entrenched tensions and weaknesses in state institutions, which are similar to pre-2011 dynamics and date back to Libya under the colonial order. In Libya, newcomers to the political scene after 2011 reverted to old mechanisms to mitigate tensions and to manage the transition. In Lebanon, political leaders reconfigured their relations using old formulas after the Syrian withdrawal and kept state institutions weak at the expense of a sectarian power-sharing agreement. A study of the Lebanese uprising shows that politicians who were Ministers and statesmen under the Syrian tutelage won the subsequent elections again after Syria's withdrawal from Lebanon.[2]

I will argue that political actors who were anti-Syrian in Lebanon and anti-Gadhafi in Libya did not act in a way to maximise national interest, but were constrained by the institutions and institutional dynamics that ensured a return to past practices rather than the adoption of new reformed practices. The weakness of the reform process was therefore an enabler and a reinforcer of path dependence. We will see this more clearly in the way that the Lebanese Parliament addressed electoral reform and the way that Libya's General National Congress evaded attempts in creating a participatory process of constitutional development.

Historical institutionalism, according to Thelen, Longstreth and Steinmo, views politics as a result of a matrix of institutions "in which individuals manoeuvre, they are motivated by a complex mix of sometimes conflicting preferences".[3] In many ways, the uprisings in Lebanon and Libya carried conflicting preferences. The movements and protestors involved called for similar

overarching demands of freedom and participation that were never translated into political reforms. Instead, in the post-uprising phase when civil society associations demanded reform, these associations were marginalised from the process. The result was choices by the political leadership in favour of limiting reforms and making these junctures only somewhat significant for the broader political order. That is not to say that change did not occur in both countries. Indeed, it is possible to argue that Libya's constitutional declaration in August 2011, despite challenges to the process, is in itself a major reform after 42 years of being governed by Gadhafi's Green Book. In Lebanon, a partial reform of the electoral process did take place in 2005 and can also be considered a major change following 30 years of Syrian patronage over the electoral process. At the same time, an exploration of these processes and results expose serious elements of continuity that merit closer analysis. Without understanding these features and the history behind them, it is not possible to understand the political dynamics at present. For each of the cases, path-dependent outcomes indicate that there were institutionally constraining historical factors that limited action and decision-making. In other words, political leaders could only do so much during the transition. Path dependency posits that political decisions accumulate over time, gain institutional shape (be it formal or informal), and restrict options for future policy-makers.

I portray the mass uprisings in this study using Capoccia and Kelemen's definition of *juncture*:

> In the context of the study of path dependent phenomena, critical junctures are relatively short periods of time during which there is a substantially heightened probability that agents' choices will affect the outcome of interest. By relatively short periods of time, "we mean that the duration of the juncture must be brief relative to the duration of the path dependent process it instigates" (which leads eventually to the outcome of interest). By "substantially heightened probability," we mean that the probability that agents' choices will affect the out-come of interest must be high relative to that probability before and after the juncture.[4]

In a way, the uprisings created a period where there were heightened possibilities for change due to changes in the regime. While the uprising in Libya led to changes that were somehow more significant, in Lebanon they were a mere embellishment of an existing sectarian power structure. In both cases, uprisings created the opportunity for a *strategic selection* moment in Lebanon and Libya that was constrained by the preference of political agents to resort to old mechanisms of political order. The potential for expanding this strategic selection moment was limited by a sectarian political order and a power-sharing system in Lebanon. Sectarianism, or sectarian political order, means a system of government that uses sect as the primary unit of representation and participation in the political system. In Libya, the strategic selection moment was limited by weak state structures and the emergence of power-sharing agreements that placed

sub-national communities, such as sects in the Lebanon case, at the heart of representation and participation in the new political order. Both these arguments are expanded in subsequent sections.

To conclude this section, it is important to bear in mind that scholars are tracing opportunities for regime change to an array of factors, including internal and external factors. Political reform processes in Lebanon and Libya proved to be slow and challenging and merit a closer look at the history and institutions of both countries. Citizens in both Lebanon and Libya have harboured dissatisfaction with the patronage of Syria and the regime of Gadhafi, yet their political leaders have retained a capacity to discourage political participation and competition. We need to understand what explains the decision to not undertake reform after the uprisings. The case studies will later show that political leaders during the transition were motivated primarily by the desire to maintain institutions that enabled them to share power. In the cases of elections and constitutional order, the leaders assessed options and engineered a process that would lead to their wielding power instead of leveraging a competitive participatory process for elections and a participatory constitutional process, thereby aborting the possibility of a *complete* critical juncture. I move now to depicting the three elements of continuity: weak states, communal power-sharing, and ineffective civil society actors, all of which are evident in the case studies that will follow.

2.3 Implications of a weak state

The presence of a weak state means that political leaders make decisions outside of state institutions, that citizens receive goods and benefits from outside the state, and that political order depends on mechanisms stronger than those found in state institutions. For the purpose of understanding reform processes, I posit that a weak state means that public institutions are limited in their ability to push forward reform options and to advocate for, or to implement, reform. Weak state institutions are limited from a resource and political leverage perspective. In the cases of Lebanon and Libya, for instance, the state is not the guarantor of citizenship. Citizenship as a status is obtained through loyalty to a particular community (ideological, tribal or sectarian). To deem a state as weak is to say that there are other political actors that are (too) strong in relation to the state, the former are able to grant citizenship rights as a status, for example, and to undertake reform. In other words, the state has not permeated all of the political, social and geographical boundaries within its borders. This section presents the rationale for identifying weak states as a constraint on political reform.

Both Lebanon and Libya as former colonial states bear what Ibrahim refers to as "deformities, ranging from artificialities of their borders to the internal weakness of their institutions".[5] During the first decades of their independence both Lebanon and Libya faced the challenges that Harik depicted as an embattlement on both internal and external fronts.[6] In both countries, non-state actors and organisations survived from the colonial period and remained powerful players in the political order, including a combination of tribal, religious, military and

sectarian actors. In both cases, colonial rulers redirected resources and authority in a way that deeply affected the response of indigenous forces to the reconstituting of political power, resulting in a fragmentation of social control and the heterogeneity of rule-making within these polities.[7] While state-formation as a process in Europe for instance took centuries, the post-colonial periods in Lebanon and Libya mistakenly depicted the formal declaration of independence as the rise of a capable central government and a state that could govern effectively. In both countries, destabilising regional forces played a role in either undermining or directly competing with national authorities. The rise of Nasserism in Egypt for example, was for both Lebanon and Libya, although for different reasons, a factor in fragmenting as well as polarising the social and political orders at both local and national levels.[8]

But the effects of colonialism alone are not sufficient to explain the current states of Lebanon and Libya as weak. There are also solid endogenous forces that led to these states having weak capabilities in the face of political competition, conflict or political demands from their citizens. Although there is much scholarly debate about the terminology of weak or fragile states, the commonality in such literature is the state institutions' lack of willingness or capacity to perform core state functions, mainly in the fields of security, representation and welfare.[9] Core state functions are widely recognised as: security and use of power to preserve sovereignty over a territory, provision of basic services such as education and health to citizens, and fostering legitimacy through the rule of law and protection of the right to participate in the political process.[10]

The functionalist approach to identifying state weaknesses is useful in the cases of Lebanon and Libya. Here I borrow from Ghani *et al.* the proposed features of statehood, which are: (1) a legitimate monopoly on the means of violence; (2) administrative control; (3) sound management of public finances; (4) investment in human capital; (5) the creation of citizenship rights and duties; (6) provision of infrastructure; (7) market formation; (8) management of the assets of the state; (9) effective public borrowing; (10) maintenance of rule of law. Of the ten features, there are three conditions that are most relevant to my case studies, which are (1) monopoly over the means of violence; (2) creation of citizenship rights and duties; and (3) maintenance of rule of law.[11] These three preconditions are in line with the functionalist perspective on the role of the state, which was weakened during transition in both countries. Political goods are the rights and expectations of citizens that the state manages and delivers through interaction with citizens. The weaker the state is when it comes to controlling violence, nurturing citizenship rights, and maintaining the rule of law, the less it is able to provide these goods and thus citizens have a reason to seek them from other actors.

Legitimacy of state institutions is another factor of statehood advanced by Weber, who explains that, in traditional communities, people are tied into informal networks of mutual obligations which are perceived as more powerful than their obligations as citizens to the state.[12] Legitimacy of rule is a crucial consideration for Lebanon and Libya, particularly because it takes a strong

political connotation in the reform process.[13] According to Weber, the state is comprised of "compulsory political organisations" whose "administrative staff successfully upholds the claim to the monopoly of the legitimate use of physical forces in the enforcement of its order … within a given territory".[14] In the absence of a monopoly over force, people respond to and obey rules of their community (be it ethnic, religious or cultural) as opposed to the rules of the state. Legitimacy in weak states therefore is in the hands of the groups in power rather than in the hands of institutionalised civil servants.

This crisis of legitimate rule is symptomatic of the inability of the state to spread and maintain the rule of law across a particular nation or geography. Legitimacy, and therefore the ability to govern, rests in the hands of the leaders of communities and not in the hands of the state and its institutions. Chapters 3 and 5 will address the sources and examples of communal leadership in Lebanon and Libya. For example, in Lebanon, strategic political issues are settled in a "national dialogue table" often bringing in factions that are not formally within the state to broker a deal on a state issue.[15] Likewise in Libya, loosely organised military factions that fought on the side of the revolutionaries during the 2011 uprising have pushed forward their desire to isolate pro-Gadhafi forces, not as part of the state, but as community leaders. In both cases, these actors derive their strength from their traditional communal leadership of tribes or sects, which forms the same basis for political party formation and access to public office.

Viewing the state from a functionalist perspective again, Migdal's work is illuminating.[16] He posits that the state's ability to survive rests on the organisational capabilities of its leaders, population size, potential material and the available human resources as well as the international configurations at the time.[17] Here, a government's ability to influence political processes depends on its capacity to mobilise human and material resources for state action. This begs the question, when human, military and material resources are not at the disposal of the state, what does this imply for the ability of the state to maintain its rule? In Libya, for instance, oil and natural resource management is at the mercy of military factions, and financial resources in Lebanon are highly dependent on consensus between sectarian leaders outside of state institutions. With regards to reform during transition, Migdal claims that during a crisis institutions weaken as their rules become irrelevant to matters at hand. As a result, institutional change is seen as discontinuous and sporadic, occurring only in rare, sudden moments (critical junctures). In a crisis or transition therefore, any attempt to increase state capability will necessarily undermine the prerogatives and bases of social control enjoyed of non-state strongmen. Chapters 3 and 5 will show how the transition in Lebanon and Libya gave leeway to traditional leaders emerging from sects or tribes who had an advantage over other potential newcomers.

To conclude, what is most relevant to my case studies is that weak state institutions lack the political support to advance a reform process especially during transition. These institutions have weak formal rules (laws, regulations, procedure) and weak informal constraints (norms, culture, attitudes) when it comes

to being able to advocate for, and execute a reform. Weak states incentivise alternative sources of rule-making, which are very often non-state actors. At present, armed groups in Libya that fought Gadhafi's forces are yet to disarm and continue to weaken the state's monopoly over the use of force. Lebanon continues to be torn between warring factions and armed groups, with Hezbollah and its resistance to Israel representing the foremost armed force. In particular, reforms that can alter the relations between citizens and state in the direction of rule of law are especially unlikely when citizens tend to obey the rules of non-state organisations (military or other) as opposed to public institutions. Weak states are also unlikely to be able to advance citizenship rights and to promote public participation in political processes. It is important to note the distinction between weak states and failed states. In the latter, warring factions that are contesting power are maintained by purposeful strategies of political agents.

2.4 "Communal" power-sharing systems

Power-sharing as a form of governance is not necessarily a pejorative term in comparative political studies. Scholars and practitioners arguing in favour of this form of governance consider that the sharing of power and decision-making is indeed a good thing for any state. But the *sharing* or *dividing* of sources of power for political gain should not be mistaken as the *inclusion* of various political factions. In the cases of Lebanon and Libya, power-sharing has gone beyond its traditional intention, to ensure representation of the various factions, to instead subjugate the state and keep state institutions at the mercy of various factions. Power-sharing has also confined political participation to religion, region or tribe. In the case of the Lebanese electoral system, citizens cannot participate except on the basis of sectarian belonging and ancestral origin, which limits loyalty to the nation as a whole and limits the role of parliamentarians to pleasing only members of their sectarian group. Sectarianism therefore in Lebanon is the political order in which the sect is the main unit for representation and participation in the political system. It indicates that citizenship as a status and as a set of benefits is necessarily part of sectarian not national identity. Membership to a specific segment of society is referred to as a "community" in this research and therefore communal power-sharing is an agreement of predefined communities coming together to form a legislature and an executive branch. Power-sharing, which is often incorporated within the larger field of consociationalism, is the practice of sharing and dividing power among sizable and pre-determined groups.[18]

In Libya the (short-lived) dynamics of the constitutional process are based on regional and tribal identities, as will be revealed in the study of the constitutional dialogues, and this makes national priorities difficult to agree on. In this section, I make my argument as to why this particular form of power-sharing – which is primarily about "communal" representation (regional, sectarian, or tribal) – has proven to be a constraint on political reform during transition and has contributed to higher path dependence in the cases of Lebanon and Libya. Power-sharing

refers to a set of political and public institutions that formally distribute the rights of representation and decision-making to a predetermined (communal) group of people. For Libya, power-sharing refers to how sizable groups accommodated each other's political demands at the expense of an open and inclusive constitutional process. In particular, between 2012 and 2013, the Libyan political order became more based on dividing power among certain groups, which themselves contributed to path dependence after the uprising.

Ever since Arend Lijphart coined the term in the late 1960s, power-sharing has been put forward as a model of maintaining democracy in a divided society.[19] Lijphart's work demonstrated that power-sharing in divided or conflict-ridden societies provided an incentive for elites to cooperate.[20] According to Lijphart, democracy is only possible in divided societies when power is shared rather than being monopolised and concentrated in the hands of the majority, particularly if the minority consists of a group that is ethnically or culturally homogeneous.[21] Inter-communal violence, civil wars, and political disintegration are some of the reasons cited that encourage a power-sharing agreement among political or ethnic groups.[22]

The case of Lebanon, dating back to 1861, was widely cited as an example of power-sharing that could secure an end to violence and create stability in the political order.[23] Other, more recent, examples have included South Africa after Apartheid[24] as well as Iraq after 2005.[25] The primary assumptions being that power-sharing offers the opportunity to resolve crises by guaranteeing warring factions the opportunity to be part of government. Akin to power-sharing, consociational democracy is seen as one form of government that responds to a particular political culture and social structure – one that is fragmented. Lijphart (1969) argues that consociational democracy enables leaders of rival groups to channel their competitive behaviour into a shared executive and a shared parliament where they can be proportionally represented.[26] For Lebanon, power-sharing enables rival groups to "agree to disagree", but all work within weak state institutions that allow opposing groups to maintain power and representation. One main pillar of consociationalism is the commitment of elites to maintaining power-sharing as a means to overcome fragmentation and mutual tensions.

The two primary attributes of consociational democracy, according to Lijphart, are "grand coalition and segmental autonomy – and its two secondary characteristics are proportionality and minority veto": Grand coalition, also called power-sharing, means that the political leaders of all of the significant segments of a plural (deeply divided) society govern the country jointly. Segmental autonomy means that decision-making is delegated to the separate segments as much as possible. This in turn supports fragmentation in identity and in citizenship whereby political participation is contingent about the willingness of separate segments to engage their communities. There is no overarching institution (state) that protects the right to participate and to be represented.

The initial enthusiasm for consociationalism and power-sharing was however dampened down over the years. Whilst veto power that secures the representation of minorities encourages representation for pluralistic societies, when the

majority and minority define themselves as ethnic or religious groups, veto power paralyses the ability of public institutions to oversee the political process and manage public resources. The threat of withdrawal, or lack of confidence, becomes a factor determining how much of a say communities (predetermined groups) have in the political outcome. When such tensions are not handled in government, the result is civil violence and political deadlock.

Notwithstanding the case of Lebanon, in which power-sharing could not deliver its promise of limiting violence and managing crises, a growing body of literature has provided the theoretical foundations for refuting a specific form of power-sharing, that in which representation is pre-determined. The sceptics used three main grounds for their counter-arguments to Lijphart.[27] First, power-sharing and consociationalism, which presumes consensus-based agreements as the foundation of stable political, order make citizens completely differential and allows for secrecy in decision-making, which in turn can fuel discontent from both masses and minorities. Second, the sceptics of power-sharing refuted it as a model of democracy because political participation is threatening to power agreements by elites; such political competition is almost absent from the power-sharing agreement and therefore contradicts the premise of a democracy. The third argument is that power-sharing, in ethnically plural societies, mandates the guaranteed representation of groups that are confined and predetermined, as opposed to self-determined groups.

This third argument is useful for advancing the assertion that the choice of power-sharing in Lebanon and Libya provides no incentive for the political leadership to reform the system. Rather, it means that identification, loyalty and legitimacy remain a factor of the group or the segment that is represented and does not allow for social, political or cultural mobility. This confinement can end up harbouring dissent, dissatisfaction and radicalism, as opposed to the inclusion and stability that consociationalism promises.[28] According to Cammett and Malesky, recent research proves that power-sharing can exacerbate conflict, especially in the absence of proportional elections that would otherwise encourage intra-communal collaboration.[29] Moreover, there is little literature on what can consolidate power-sharing systems and what factors are important to the long-term survival of the state and the political system.[30]

The two country cases both exhibit important elements that would position them as suitable for a power-sharing agreement. They are both post-conflict societies, ethnically diverse, and politically divided. In particular, the social and political cleavages that emerged following Syrian involvement in Lebanon (2005) and post-Gadhafi in Libya (2011) could well encourage political actors to prescribe power-sharing agreements as the only way to end a conflict. Viewed in comparison with either war or authoritarianism, consociationalism is appealing to political leaders in both countries. But this book is not about resolving conflict nor promoting a stable form of democracy; my question is about the challenges to political reform where power-sharing has proven a major obstacle. While having an ensured stake in government might be an incentive to end a conflict, my main assertion is that it is not an incentive to reform the political process or

political competition. This century-old system in Lebanon is quite different from Libya's recent moves toward a sharing of power. But in both cases, settling political decisions through power-sharing has brought back elements of continuity from the past. Any attempt to enhance political participation (constitutional in the case of Libya) or political representation (elections in Lebanon) would threaten the fragile "deal" brokered by communal group leaders whose power is based on either religion, region or tribe. The system becomes deadlocked in two ways: representation and participation are pre-determined (confining) and reform becomes destabilising (no longer self-serving to the groups in power).

Power-sharing therefore carries within it the seeds that impede political reform. In particular, by granting power-sharing in regard of representation also grants a veto power to the community groups that are represented. In theory, power-sharing that allows for self-determination could encourage reform and intra-communal collaboration in favour of national interests. But a pre-determined representation with veto powers perpetuates cycles where deadlock is likely (Lebanon 2005–2009, and Libya 2012–2013), and most importantly weakens the legitimacy and power of the state in relation to the legitimacy and power of divided communal groups. This is largely because power-sharing is seen as a final state of affairs and an agreement to manage potential conflict; it is not regarded as a transformative process that offers realistic reform options.[31] Based on the premise that power-sharing agreements result in a political order that does not encourage political participation outside of predetermined confinements, I move to the third element of continuity in my study, which is the ineffectiveness of civil society actors in both Lebanon and Libya.

2.5 Defining and problematising civil society

The literature on civil society in the Arab region is vast and presents the reader with a variety of contested issues, including the conceptualisation of civil society organisations, the role of civil society, and the relationship between civil society and regimes that are authoritarian or quasi-democratic. In this book I use the term "civil society" to refer broadly to the associational (volunteer) sector found in Lebanon and Libya of which non-governmental organisations (NGOs) are a major segment. Civil society is applied as an illustration that certain campaigns for political reform did not succeed in garnering sufficient pressure for reform. I do not argue that civil society would have brought about democratisation in Lebanon and Libya but that its limited role contributed to maintaining path-dependent outcomes after each country's juncture. Lebanon has a long history of NGOs and civil society associations whilst, in the Libyan case, these organisations are newcomers to the social and political order. This section highlights those aspects in the literature that are relevant to the question of why civil society organisations have remained relatively ineffective in the pre- and post-uprising stage and indicate elements of continuity from the past regime. More importantly it relates this ineffectiveness to the challenge of political reform in

weak states with enduring power-sharing systems. In doing so it is important to bear in mind that the politically exclusionary nature of the Gadhafi regime (1969–2011) is very different from Lebanon's long-standing consociational order (1841–present). What the two countries have in common however, is that during the time period researched for this study, representation in the political order was contingent upon belonging to factions that divided power and representation in a confining manner, rendering any role for autonomous NGOs as distinct from, and ineffective in, the political reform processes. It is therefore necessary in evaluating the role of civil society actors to have also prepared the ground by understanding how weak states and power-sharing agreements relate to the associational sector broadly, and to civil society that seeks to work on political reform more specifically. It is also necessary to explain the ineffectiveness of civil society within the context of both countries. The category of civil society organisations chosen for this research is those that seek to act as a platform outside of the confines of the communities that are represented in the power-sharing agreement. For Lebanon and Libya therefore, it is groups working on national reform issues that mobilise actors from all sects, regions and ethnicities.

Of the various categories and types of civil society organisations, my case studies look at NGOs that have an organised structure whose presence and role is much debated. I look at the segment of these NGOs that dealt with political issues in Lebanon between 2005 and 2010 and in Libya between 2011 and 2013. For the purpose of this study NGOs are those groups that are able to create platforms for participation in the political sphere through direct actions, associations, or through relaying demands of interest to the public and in doing so act as a defence against politics and political orders. Civil society associations can entice mobilisation for a common cause, as the case studies will show in Lebanon and Libya.[32] In both countries, these actors proved that they can rally citizens, articulate demands, and ensure the participation and support of thousands of citizens in support of a particular reform. Their function therefore was to advocate for political reform in the direction of greater participation and representation in the political system.

Unlike the normative approach, which sees that civil society is both a factor in enhancing democracy and an indication of a quality democracy, my approach sees civil society as an indication of weak state structure incapable of structuring the demands of civil society. Normatively, the freedom to form associations that can keep a "watchful eye" on the state is a key factor in promoting accountability and responsive governance.[33] However, in the Libyan and Lebanese context, the freedom to form associations is not necessarily linked to their ability to pressure state institutions or to influence governance. In the normative stream of literature the viability of civil society is dependent on a broader democratic political system that can enhance and allow a role for such organisations that is lacking in Lebanon and Libya. By the same token, the absence of a dynamic civil society means the political system is not democratic and this angle dominated much of the literature on the Arab region prior to the uprisings in

2010–2012.[34] This tension between the role of civil society and the type of governance system has not been concluded in both academia and practice. It is not clear whether civil society can indeed bring about normative democratic ideals or whether it is that democratic ideals can promote and nurture an active civil society. The normative angle linked this concept strongly to the opportunity of democratising regimes in the MENA region.[35] It was thought that a greater presence of civil society actors could force governments to adopt democratic reforms. This understanding of the role of civil society actors stems from the assumption that these actors can work to promote democracy and that they are found in institutions with democratic ideals. The normative claim has dwindled from the academic debate for reasons that civil society actors were not proven as capable of promoting democracy. Additionally, it was not necessarily the case that these civil society actors were working within democratic structures or democratic ideals that could expand to reach political leaders.[36] For these reasons, which make the links between democracy and civil society questionable, the normative approach is not the one chosen in my framework.

Indeed, the expansion in number and scope of civil society associations and non-governmental organisations working on issues of governance and political order, particularly in the 1990s, was not accompanied by political change in the Arab region and spawned great scepticism about the existence of a civil society and the validity of the normative claim that it can strengthen or democratise the political sphere. There was also strong scepticism that the NGO model supported by foreign donors and policy-makers did not trigger the required political support for key reforms that could bring about democratisation in the region.[37] This was especially the case when foreign allies of the regime were allowed to provide funding and technical assistance in line with the state's political stances.[38] Foreign assistance coalesced with the regimes' strategy to position itself as liberal and reformed. This skewed the interests of non-governmental associations in favour of maintaining the status quo.[39] Across the region, regimes allowed for a rise in activism and increased the ability of citizens to voice their demands, but that did not change the way the state dealt with citizens or the type of political representation.[40] The literature review that will be presented in Chapters 3 and 5 shows an increase in the size of the associational sector, meaning the number of NGOs. But this new type of political NGOs was not an effective mechanism for citizen participation in politics and the advent of such NGOs was not accompanied by political reforms that reshaped the relations between citizens and state.[41]

Another dominant literature uses a more functionalist perspective, viewing civil society as a segment of groups or associations that are actively taking part in issues of a public nature. Civil society viability in this perspective is based on the ability of the actors and NGOs to engage in the political process and contribute to political institutions, processes and participation. Under authoritarian regimes therefore, civil society actors were theoretically able to flourish and contribute to public affairs without being directly associated with the rise of democracy.[42] This is because authoritarian regimes would allow a margin of freedom

to participate in political affairs and to articulate demands without necessarily responding to these demands by opening up participation and competition. The functions of these actors is largely dependent on the legal, political and social context in the broader system of governance.[43] Because of restrictions on freedom, funding and activities, the increase in civil society associations in the Arab region was not seen as a vehicle for democratisation.[44] The mass uprisings that swept the Arab region encouraged scholars to rethink the range of relevant social actors by expanding it to include more informal social movements that all took part in the mass uprisings, but that were not typically considered part of this "democratic" civil society.[45] These events contributed to the weakening of the myth that NGOs alone can bring about political change and also challenged the notion that only a specific type of civil society actor can destabilise long-standing regimes in the region.

The NGO's role in the reform process is included in this research as one constraint on political reform represented by the lack of responsiveness of state institutions to the demands for political reform promulgated by the NGOs. Civil society then is a platform capable of mobilising citizens from across different sectarian communities in Lebanon and different ethnic and regional backgrounds in Libya. While it remains to be seen whether indeed these platforms could being about democratic ideals and democratic reform, the research here will show how limitations on such platforms is indicative of strong path dependence which constrains the potential for reform. Without reforms that contribute to greater representation and participation, civil society organisations in both countries were unable to sustain their efforts. In both Lebanon and Libya, there are a number of associations that have the expertise, resources and the willingness to take part in advancing key political reforms. The case studies will show how these actors were disconnected from the centres of decision-making. In both cases discussed in Chapters 4 and 6, NGOs succeeded in mobilising people, surveying public opinion, and proposing reforms, but they fail in being able to contribute to creating the political will necessary for reform, largely because the system provides no incentive for decision makers to adopt reform. I therefore contribute to the debate about the generic weakness of "civil society" by showing empirically how NGOs working on political issues have not been able to trigger political reforms during transition.

I have selected NGOs working on political reform, specifically demanding political representation or participation, as one type of civil society associations that have been highly active regarding the issues of elections and constitutional development. These NGOs act as mediators between citizens and the state and are illustrative of a particular set of demands that diverged from the reform processes in both countries. It is important to position the NGOs selected for my study as part of a broader range of actors and associations that we can identify in Lebanon and Libya. The literature around civil society typologies is vast and proposes that civil society organisations can be categorised based on: scope of work, geographical location, type of membership, nature of activities, and type of demands.[46] For example, we can distinguish between urban and rural civil

society, environmental groups and human rights groups, research organisations versus charity organisations, and so on. It is also possible to distinguish between formally organised civil society organisations (NGOs) and more informal civil society actors (social movements) that are not necessarily registered organisations but are groups, networks or movements working for a common cause. Based on a review of the databases of most registered organisations in Lebanon and Libya, I propose that there are five types of civil society associations that are not necessary mutually exclusive. These are presented as the different functions that associations can perform.[47]

Self-help groups. These are community-based organisations that operate for purposes of local social, economic, cultural, political or environmental issues. They bring together local stakeholders such as municipal councils, local business and local charities to work on a common event or issue (for example, an exhibition of local crafts produced by women or a neighbourhood group working to clean the beach).

Service providers. These are associations that intervene in a particular sector to fill a gap in the needs of citizens. Their work typically includes humanitarian relief, food and shelter, cleaning, healthcare, schooling, and protection of minority groups among others (for example, organisations that set up hospitals where there are none or provide tents for refugees).

Public awareness groups. These are organisations conducting research on public policy issues that use and diffuse data to raise the awareness of citizens and political leadership regarding specific issues. These groups often monitor and report on the performance of public institutions in a particular area (for example human rights groups documenting and reporting on violations, or groups raising awareness on the abuse of migrant workers).

Unions. These are professional associations of workers that operate in a particular industry or trade in the private or public sectors. They are motivated by the need to maximise the interests of their members and comprise a significant arena of activism in both countries (for example, a union of public school teachers, or of medical doctors).

Political activism and lobbying groups. These are organisations and actors whose main concerns are the political decision-making processes and political competition. They work primarily on political reforms and seek to influence a decision by state institutions with regards to representation or participation in the political process. They are distinct from political parties as they do not seek to access power, but function to promulgate demands and priorities into the political process. The two case studies for this research are identified from within this group.

For each country, I will provide a broad review of the associational sector before concentrating on the experiences of two specific political NGOs. For the purpose of explaining the challenges to political reform, I examine the last category of political NGOs because it is most relevant to help identify the effects of weak states and power-sharing in both countries. Political NGOs chosen for this study were both working on demanding political reforms. Studying the demands

of these groups and their relationships with political leaders and state institutions reveals constraints on the likelihood of political reform. In particular, the way that political NGOs remained marginalised from the centre of decision-making and from political representation is another element of continuity from pre- and post-junctures in both countries.

Regime reactions to these groups, although they were not as violent as they were pre-juncture, remained largely dismissive and unresponsive. The two case studies will show how NGOs created after critical junctures in these two countries reinforced a similar (negative) response to their demands from the new regime as that of the pre-critical juncture regime. NGO–state relations in my two case studies are illustrative of a constraint on reform and therefore of a mechanism of reproduction of path-dependent outcomes. For example, in both the cases of the Lebanese Association for Democratic Elections (LADE) and The Forum for Democratic Libya (FDL) thousands of people were involved, a great deal of funding was spent, and in-depth knowledge regarding the political issues did not feed into the reform process. Both NGOs also transcended the sectarian, ethnic and political divides and brought citizens from different backgrounds to work on a reform issue that was later only partially addressed by the political order. The roles therefore of NGOs selected were to mobilise citizens around a specific political reform, articulate and demand political reforms during a transition, and advocate for greater participation in the political process.

In Lebanon, the activism by political groups emerged in the late 1990s and then more openly in the post Syrian era and was concerned with: anticorruption initiatives such as the Lebanese Transparency Association, citizenship issues such as Nahwa el Muwatiniya, anti-sectarianism such as SHAML, and electoral reform, led by the Lebanese Association for Democratic Elections (LADE).[48] In Libya political activism during the Gadhafi era was primarily undertaken by diaspora groups and intellectual thought leaders outside of Libya. Political activism emerged in Libya with the start of the uprising in 2011 and culminated after the conflict.[49] Activists established new organisations and groups that became increasingly concerned with youth political participation (such as H20), transparency and anticorruption (such as One-Libya), and constitutional dialogue spearheaded by organisations, such as the one selected for this study the Forum for Democratic Libya (FDL).

2.6 Conclusion: how path dependence (re)produces elements of continuity

The dynamics of transition, reform and post-uprising, focus our attention on reinforcing mechanisms that lead to path-dependent outcomes. In weak state systems, powerful non-state actors (military, tribal or ethnic) continue to play a strong role in politics and policy-making, thereby rendering state institutions less important to the reform process than outside parties. Likewise, by adopting a power-sharing agreement, the political system provides a power of veto to pre-determined communities (ethnic, regional, religious, etc.), groups that have no

interest in expanding political representation or participation to members beyond their own group. The functionalist perspective shows how political institutions are led by largely rational actors who simply do not find it in their interest to adopt political reforms that threaten their power base and jeopardise representation or participation from outside the pre-determined groups.

The next chapter familiarises the reader with the background to the case of Lebanon. In particular it emphasises how the three levels of analysis pertain to Lebanon's history and political institutions. I will begin with a review of the historical features of the Lebanese state and the intricacies of the Lebanese case that make political reform especially challenging. The chapter will then conclude with the theoretical implications to the framework presented here before moving to the findings from the empirical field study.

Notes

1 Mahoney, James and Richard Snyder. "Rethinking Agency and Structure in the Study of Regime Change". *Studies in Comparative International Development* 34, no. 2 (1999): 3–32.
2 Of the many such examples I recall here, Walid Jumblat the Druze leader who had been in power for the three decades during Syria's patronage, Botrous Harb the Maronite outspoken Syrian critic who was Minister several times under Syria's patronage, and the Sunni Future Movement led by late Rafik Hariri who was Prime Minister twice under the Syrians and whose son Saad ran for the 2005 elections after Syria withdrew.
3 Thelen, Longstreth, and Steinmo, *Structuring Politics*, 7.
4 Capoccia and Kelemen, "The Study of Critical Junctures", 348.
5 Saad Eddin Ibrahim, "The Troubled Triangle: Populism, Islam and Civil Society in the Arab World". *International Political Science Review* 19, no. 4 (1988): 373–385.
6 Iliya Harik, "The Origins of the Arab System", in *The Arab State*. Edited by Giacomo Luciani (Berkeley: University of California Press, 1990), 1–28.
7 Migdal, *Strong Societies and Weak States*, 140.
8 For Gadhafi, Abdel Nasser as an icon and Arab nationalism provided the young Colonel with the momentum he needed to skew public opinion in favour of a socialist-style popular rule as opposed to the Monarchy. It enabled him to promote himself as an alternative to the King and the carrier of Arab nationalism, which accounts for much of his later stances on tribes, Berbers and other ethnic minorities. In Lebanon, Abdel Nasser was a factor in polarising political factions against sectarian lines with the Christians mainly led by then President Camille Chamoun opposing the ideologies and policies propagated by Arab nationalists, and the Sunni Muslims aligning themselves with Arab Nationalism culminating in the 1969 Cairo agreement that openly allowed armed Palestinian factions to join a conflict with Israel from Lebanese soil, which proved then to spark the civil war in 1975.
9 Volker Boege, Anne Brown, Kevin P. Clements and Anna Nolan. "On Hybrid Political Orders and Emerging States: What is Failing States in the Global South or Research and Politics in the West?" *Berghof Handbook for Conflict Transformation Dialogue Series* 8 (2009): 15–35.
10 Stuart E. Eizenstat, John Edward Porter and Jeremy M. Weinstein, "Rebuilding Weak States", *Foreign Policy* 84, no. 1 (2005): 134–146.
11 Ashraf Ghani, Clare Lockhart and Michael Carnahan, *Closing the Sovereignty Gap: How to Turn Failed States into Capable Ones* (London: Overseas Development Institute, 2005).

12 Max Webber, *Politics as a Vocation*, from Max Webber: "*Essays in Sociology*". Edited by Heins Heinrich Gerth and Wright Mills (New York: Oxford University Press, 1968), 54.

13 Legitimacy (pronounced: *shareiya*). In the case of electoral reform in Lebanon in 2006–2008, legitimacy was contested by the Cabinet as a factor of the extent to which sectarian groups can be represented in power after Shi'a Ministers practised their veto power and withdrew from the executive. In Libya, the question of legitimacy over rule and the constitutional process was portrayed by the General National Congress (GNC) as a factor of the extent to which pro-Gadhafi forces can be isolated and excluded from power. Legitimacy in both countries is highly related to the issue of religious belonging and ethnic or tribal identities.

14 Webber, *Politics as a Vocation*, from Max Webber: "*Essays in Sociology*", 54.

15 For instance, the national dialogue before Lebanon's 2006 conflict with Israel brought together state and non-state sectarian leaders to agree on strategic security issues including for example the status of Palestinians in Lebanon. See Paul Salem, "The Future of Lebanon", *Foreign Affairs* 85, no. 6 (2006): 13–22.

16 Migdal, *Strong Societies and Weak States*, 21.

17 Ibid.

18 See Arend Lijphart, "Definitions, Evidence, and Policy: A Response to Matthijs Bogaards' Critique", *Journal of Theoretical Politics* 12, no. 4 (2000): 425–431.

19 Arend Lijphart, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries* (New Haven: Yale University Press, 1984).

20 See for instance Arend Lijphart, *Democracy in Plural Societies* (New Haven: Yale University Press, 1977).

21 Arend Lijphart, "Non-Majoritarian Democracy: A Comparison of Federal and Consociational Theories", *The Journal of Federalism* 15, no. (1985): 3–10.

22 Brenda Seaver, "The Regional Sources of Power-sharing Failure: The Case of Lebanon", *Political Science Quarterly* 115, no. 2 (2000): 247–271.

23 The history and implications of this form of political system is presented in the following chapter discussing Lebanon's case in more detail.

24 See for instance Arend Lijphart, "South African Democracy: Majoritarian or Consociational?" *Democratization* 5, no. 4 (2007): 144–150.

25 See John McGarry and Brendan O'Leary, "Iraq's Constitution of 2005: Liberal Consociation as Political Prescription", *International Journal of Constitutional Law* 5, no. 4 (2007): 670–698, or Stefan Wolff, "Conflict Resolution between Power-Sharing and Power Dividing, or Beyond?" *Political Studies Review*, 5, no. (2007): 377–393.

26 Arend Lijphart, "Consociational Democracy", *World Politics* 21, no. 2 (1969): 207–225.

27 See Philip Roeder and Donald Rothchild, *Sustainable Peace: Power and Democracy after Civil Wars* (Ithaca: Cornell University Press, 2005), and John McGarry and Brendan O'Leary, "Consociational Theory, Northern Ireland's Conflict and its Agreement. Part 1: What Consociationalists Can Learn from North Ireland", *Government and Opposition* 41, no. 1 (2006): 43–63, and M. P. Van Schendelen, "The Views of Arend Lijphart and Collected Criticisms", *Acta Politica* 19, no. 1 (1984): 19–49.

28 Arend Lijphart, *Thinking about Democracy: Power-Sharing and Majority Rule in Theory and Practice* (New York: Routledge. 2008).

29 Melani Cammett and Edmund Malesky, "Power-sharing in Post-conflict Societies: Implications for Peace and Governance", *Journal of Conflict Resolution* 56, no. 6 (2012): 981–1016.

30 See for instance Adriano Pappalardo, "The Conditions for Consociational Democracy: A Logical and Empirical Critique", *European Journal of Political Research* 9, no. 4 (1981): 365–390.

31 See Tamirace Fakhoury, "Debating Lebanon's Power-sharing Model: An Opportunity or an Impasse for Democratization Studies in the Middle East?" *Arab Studies Journal* 22, no. 1 (2014): 230–255.

32 In the survey conducted with Libyan citizens NGOs were most frequently cited as a form of political participation, and in interviews with Lebanese activists they are cited as an alternative to mainstream political mobilisation, which is traditionally through sectarian political parties.

33 Larry Diamond and Leonard Morlino, "The Quality of Democracy: An Overview", *Journal of Democracy* 15, no. 4 (2004): 20–31.

34 See for instance Sean Yom, "Civil Society and Democratization in the Arab World", *Middle East Review of International Affairs* 9, no. 4 (2005): 14–33.

35 Nawaf Salam, "Civil Society in the Arab World: The Historical and Political Dimensions", *Harvard Islamic Studies Program*, (Cambridge: Harvard University Press, 2002), Sheri Berman, "Islamism, Revolution and Civil Society", *Perspectives on Politics* 1, no. 2 (2003): 257–272, Norton, "The Future of Civil Society in the Middle East", Ibrahim, "The Troubled Triangle", 373–385.

36 See for instance the argument that a focus on civil society has been futile in bringing about reform in Vickie Langhor, "Too Much Civil Society, Too Little Politics: Egypt and Liberalising Arab Regimes", *Comparative Politics* 36, no. 2 (2004): 181–203.

37 Benoit Challand, *Palestinian Civil Society: Foreign Donors and the Power to Promote and Exclude* (New York: Routledge, 2009).

38 Yom, "Civil Society and Democratization in the Arab World".

39 An interview with member of the Civil Campaign on Electoral Reform in Lebanon provides insights as to how activists would adapt their priorities and discourse in line with how the governmental commission was dealing with reform.

40 This paved the way for a number of new labels about non-democracies in the MENA region including views that these were liberalised autocracies, see Daniel Brumberg, "The Trap of Liberalized Autocracy", *Journal of Democracy* 13, no. 4 (2002): 56–68 or Quintan Wiktorowicz, "Civil Society as Social Control: State Power in Jordan", *Comparative Politics* 33, no. 1 (2000): 43–61.

41 To validate this claim I reviewed databases of registered organisations and placed them in a proposed typology then studied NGO roles in political reform.

42 See for instance Vincent Durac, "Entrenching Authoritarianism or Promoting Reform? Civil Society in Contemporary Yemen", in *Civil Society Activism under Authoritarian Rule: A Comparative Perspective*. Edited by Francesco Cavatorta, (New York: Routledge, 2013), 135–155, and Aarts and Cavatorta, *Civil Society in Syria and Iran.*

43 A comparative study reveals the legal, political and cultural requirements for strengthening the role of civil society actors by Francesco Cavatorta and Vincent Durac, *Civil Society and Democratisation in the Arab World: The Dynamics of Activism* (London: Routledge, 2010).

44 Holger Albercht and Olivier Schlumberger, "Waiting for Godot: Regime Change without Democratisation in the Middle East", *International Political Science Review* 25, no. 4 (2004): 371–392.

45 Cavatorta, "Arab Spring: The Awakening of Civil Society".

46 NTEE classifies nonprofit organisations according to their fields of activity, purposes, governance model, religious affiliation, and clientele. Developed by Virginia Hodgkinson and Christopher Toppe in "A New Research and Planning Tool for Managers: The National Taxonomy of Exempt Entities", *Non-Profit Management and Leadership* 1, no. 4 (1991): 403–414.

47 Libyan NGOs database obtained from Centre for Civil Society updated until July 2013 with approximately 1300 registered associations, and Lebanon NGOs database obtained from registry of Ministry of Interior and Municipalities cross-checked with online registry of www.daleel-madani.org comprised of approximately 1400 NGOs.

By reviewing the scope of work and identifying the sectors where NGOs are active, I inferred the five categories here.
48 Kingston, *Reproducing Sectarianism.*
49 Borzou Daraghali, "Libyan Activism Blooms in Post-Gadhafi Era", *Financial Times* 18 March (2012).

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3 Lebanon

Intricacies of a sectarian power-sharing system

> We believe the reasons behind violence in Lebanon do not lie within the previous wars but within the peace settlements that were adopted in Lebanon.
>
> Ahmad Beydoun[1]

3.1 Introduction

The endurance of Lebanon's consociational democracy and the survival of sectarian power-sharing agreements are indicative of a particular form of regime resilience. In terms of path dependence, the Lebanese system is an example of how consensus among political elites who have an interest in a particular form of government can make reforming state institutions a challenge. Most recently, when mass uprisings in the Arab World were accompanied by regime change, many hailed the "Lebanese model" as a formula for stability in divided societies, as Lebanon was able to maintain its pluralistic character despite deep and long-standing political divisions.[2] Lebanon's ability to overcome cycles of conflict was attributed to this power-sharing model, which guaranteed representation for its main sectarian groups. What tends to be overlooked in the literature is how the power of sectarian groups weakened and often paralysed state institutions. Formally, the Lebanese political system does not require religious representation, but informally the system, and all its institutions, is based on the acquiescence of sectarian religious groups.[3]

Political decisions require a process of consensus building among sectarian leaders whose groups enjoy almost complete autonomy afforded to them by the Ottoman millet system and maintained since.[4] As early as the mid-19th century, Lebanese sects were recognised as autonomous communities and allowed to govern their own personal and religious affairs in accordance with religious norms and with input from religious officials. Lebanon as a case study offers significant insight as to how weak states relate to civic organisations and how power-sharing agreements, over time, lead their states to become averse to reforms that would enable political competition and citizen participation outside the confines of ethnicity, religion or geography.

The Lebanese political system's focus on sectarian leadership has emphasised a sectarian identity and belonging, which in turn exacerbated social and political

cleavages among the Lebanese.[5] The power-sharing system posits that Lebanon's consociational formula guarantees representation for pre-determined groups split between the main Muslim, Christian and Druze factions. Representation is through political parties of a homogeneous sectarian base, because there is no incentive for intra-communal parties that would represent a national constituency.[6]

Sectarianism also implies that personal status issues are governed by the religious court and confessional authority of each major religious group that is recognised by the state. A total of 15 personal status laws administer the affairs of the 18 recognised sects.[7] The system allows for each religious community to have its own court system and all attempts to reform this since the 1970s have failed at the state level.[8] Article 9 of the Lebanese Constitution underlines the state's respect of all sects and their personal status matters. The Lebanese citizen thus abides by his/her sectarian laws and courts "from the cradle to the grave but does not participate in or benefit from effective state oversight over religious authorities".[9]

Civil marriage is not possible in Lebanon and all laws pertaining to inheritance, travel and religious freedoms are contingent upon their recognition by religious, and not civil, courts. It is only recently that a lawyer, Joseph Bechara, has identified a legal loophole and has registered the civil marriage of a few couples without having to appeal over decades-old legislation pertaining to sectarian identity that states that a person must change their sectarian identity if they wish to marry someone from another religion.[10]

Election to office takes place through an electoral system where sectarian belonging is the basis for candidacy, voting, and representation.[11] Sectarianism within institutions requires that civil service appointments, and promotions in the public sector, be based on sectarian belonging.[12] Education policies pertaining to what curricula are taught, where schools are built, and who can access private education are also tightly linked to sectarian power dynamics.[13] Even the associational sector is "sectarianised", with the majority of NGOs supported by the state belonging to established religious groups, or families of sectarian leaders.[14] Sectarian NGOs founded by prominent political leaders, especially after the civil war, also are primary providers of up to 60% of basic health and education services.[15] Even sports, for example, football and basketball clubs, is a tool for competition between sects characterised with patron–client relations and financed by sectarian elite.[16] Lastly, although parties do exist, most state representatives do not belong to political parties and party competition only takes place between sectarian parties or is aimed at dividing the votes of sectarian communities.[17] Party membership is homogeneously sectarian and, as such, parties do not support integration but rather the continued fragmentation of identities and belonging in the Lebanese polity.[18]

With a violent past, unstable future, and perilous regional environment, scholars writing on Lebanon continue to interpret events through a narrative of recurrent sectarian strife maintained by an "imperfect", hybrid, or consociational democracy. Inquiries into Lebanon's political system often dismiss its establishment during the Mutasarrifya of Mount Lebanon in the time of the Ottoman

Empire[19] and focus on the emergence of the National Pact that laid the foundation of Lebanon's current state system in 1943.[20] Lebanon's strategic importance within the region has also allowed foreign actors to favour power-sharing as a means of sponsoring local groups that advance their own interests.[21] This creates a situation in which political elites benefit from outside support, aiding them in the defeat their opponents and external actors benefit from having Lebanese factions advancing their own political agendas.[22]

This chapter explains how endogenous and exogenous factors interact and solidify power-sharing through the guaranteed representation of sectarian groups, thereby entrenching the weak state and a civil society that is politically ineffective. This chapter has three main objectives. First, it presents key concepts in the analysis of Lebanon's political order and the relationship between citizens and a sectarian state. In the second section, I examine key historical features and events that led up to the withdrawal of Syrian troops in 2005, the event that comprises the partially critical juncture analysed. Lastly, I conclude with the political implications of these historical experiences before moving on to the case of electoral (non)-reform between 2005 and 2010.

3.2 Key "Lebanese-centric" terms

This section explains three key concepts that have become part-and-parcel of the Lebanese political lexicon and practice. Politicians use these concepts to promote their decisions and convince constituencies that they are upholding the interests of the country. They are therefore seen as positive terms when it comes to political decision making and strategic choices about the political order. However, by considering their implications, this section highlights their negative effect regarding the possibility of political reform.

The first notion is coexistence (*aish moshtarak*), a term upheld in Lebanese political discourse as the ultimate aim of the power-sharing system. This notion is salient to the political emphasis on "coexistence", which has overshadowed much of the politics of, and literature about, Lebanon.[23] Coexistence implies that there is implicitly a communal tension that must be continuously regulated. The status of a citizen is acquired though his/her belonging to a sect and his/her agreement to coexist with another sect. In this context, sects are legally "confessionalising" the relationship between citizens and the state. National identity is characterised by different identities, so national identity is not unitary but occurs through cohabitation and the coexistence of different identities. The system of coexistence, however, fails to provide peace and stability since it exacerbates inequity in citizenship rights and empowers sectarian communities to mediate relations between citizens at the expense of the role of the state.[24] In Lebanon *aish moshtarak* became the label given by politicians for decisions, policies and alliances that they claim are to the advantage of sectarian ties.[25] Belonging to a sect supersedes belonging to the state and is a prerequisite for political participation. The power-sharing system is then portrayed as saving and securing the interests of these sects. But the political institutions resulting from power-sharing

have strengthened fragmented identities that feed into the promise of coexistence by incurring benefits and representation solely based on sectarian belonging.[26] At the heart of these institutions is Lebanon's electoral system.

Here, the second key "Lebanese" term is political patrons (*zu'ama*; plural for *za'im*) who provide political patronage, protection, and services to citizens. The term has its roots in the Ottoman Empire where it was used to refer to feudal dignitaries.[27] Zu'ama are not religious leaders but leaders of sectarian groups supported by religious leadership, such as the Maronite Patriarch or the Sunni Mufti. Zu'ama therefore enjoy two bases of support: from religious leaders at the national level and from sectarian supporters/constituencies at the national and local level. These sectarian bases of power make state institutions the primary loci of contest among sectarian leaders who claim that these institutions have a duty to cater for their constituency.[28] The zu'ama are self-proclaimed representatives of the major sectarian groups and have in common the fact that their power-base is confessional, they are the merchants and financiers within the Lebanese economy, and they have direct official representatives in the legislative and executive branches.[29]

There are "high level" sectarian zu'ama who are leaders of major political parties and who have representatives in political office. The most prominent are: Hasan Nasrallah who leads the largest Shi'a party, Hezbollah, Walid Jumblat who leads the largest Druze party, the Democratic Renewal, Saad Hariri who heads the largest Sunni party, Future Movement, and the two heads of competing Christian parties, Michelle Aoun of the Free Patriotic Movement, and Samir Geagea of the Lebanese Forces. These "high level" zu'ama perform all the functions traditionally ascribed to statesmen. They have their own foreign ties and external patrons, attend international conferences and represent Lebanon, propose and support legislation, as well as sit at the National Dialogue table, which is the main platform to resolve political conflict and build consensus. For example, all civil servants in grades one to three (middle and senior public servants) are appointed directly by the Cabinet based on their sectarian affiliation and their receiving a nomination from these national zu'ama.[30] In addition, there are local-level zu'ama providing services and patronage at the local and municipal level. The approximately 940 municipal councils at the local level are under-staffed, lack financial resources, and cannot carry out their basic mandates such as the cleaning and lighting of streets. These gaps in municipal functions are replaced by local-level zu'ama who can cater for the basic health, education and employment needs of citizens in their localities. Local zu'ama also organise voting during elections, rally supporters to major protests when needed, and distribute benefits and goods via religious or sectarian charity associations.[31] The za'im, most often male, derives his legitimacy from religious figures who endorse him and who direct certain policy stances. Political zu'ama and religious leaders therefore collude on key reforms. The Maronite Patriarch and Sunni Mufti are therefore key political figures who support candidates to parliament, nominate Presidents of the Republic, and can ask their constituency to boycott legislative reforms.

The third term with dual meaning is sectarian system (*nizam ta'ifi*), referring to the form of power-sharing that Lebanon has adopted for over a century. It refers openly to a system that is sectarian – seats in Parliament are divided on a sectarian basis and the judiciary and executive are appointed to maintain equality among the recognised sectarian groups. Lebanon's President is therefore always a Maronite, the Prime Minister a Sunni, and the House Speaker is Shi'a.[32] The use of the term *nizam*, meaning system, is clear about it not being an institution (*mo'assasa*), but a network or a system of sectarian interests in which sectarian leaders perform the main functions.[33] A system, unlike an institution or a state, is not headed by one person and is, as such, very difficult to reform or remove altogether.[34] Every decision, policy, budget, programme or appointment requires the approval and buy-in of the major religious sects (*tawa'ef*, plural *ta'ifa*).

The ta'ifi nature of the system strengthens communal identity, making the sect a principal source of the self and the group, giving rise to multiple spheres that fragment, rather than unite, a national public sphere.[35] It accentuates religious ties in the political sphere to ensure that religious or sectarian identity is a key factor in political behaviour. Subsequently, institutions within this system are designed to accommodate for fragmented identities that seek protection from sectarian zu'ama. The nizam's main pillars are institutions that are staffed equally among sects and that are subservient to the role of sects. Salloukh suggests that it may be more relevant to note that while there may be nothing inherently ta'ifi in Lebanon's political make-up, the ta'ifi system enforces and reinforces sectarianism and engineers a particular set of sectarian elite who govern without accountability.[36]

The nizam tai'ifi therefore has an inherent preference for political actors emanating from the high level zu'ama. This is why a look at "the name of presidents, prime ministers, deputies, supreme court justices, ministers and most class "A" civil servants would confirm that the same family names recur almost uninterruptedly for the last two centuries".[37] These names ascend to power from national zu'ama and represent the same large sectarian families who forged power-sharing agreements at different critical junctures in Lebanon's history. They are often sons of fathers or grandfathers who have been in power for decades and who form elite cartels to circumscribe and limit state power.[38] The nizam ta'ifi has made political reform an arduous task and challenged the role of civil society in reform since before the civil war until after the Syrian withdrawal in 2005. The nizam ta'ifi cannot promote a national form of citizenship and civic participation or enforce the rule of law nationally.[39]

The three notions explained here embody the features of path dependence in Lebanon. The following historical review shows how the role of the zu'ama benefits from this notion of coexistence and helps to preserve the sectarian system at various political junctures. These notions make the Lebanese state resilient to change, yet weak enough to adopt change that supports sectarian power-sharing. The state's functional weakness allows for social services, freedoms, and benefits to be bestowed upon citizens by non-state actors such as

charities and political parties led and sponsored by its sectarian leaders.[40] Sectarian leadership that is para-public (its power stems from outside of the state and flows beyond state institutions) remains stronger than the state and thrives in the absence of reform on sectarian ties, maintaining hegemony over political life. This weakness makes it possible for sectarian leaders to dominate political, economic and social life without having any incentive to reform the state and the political processes, as will be illustrated in Chapter 4. The following section traces the evolution of Lebanon's power-sharing system over five phases.

3.3 Path dependency under the Ottoman Empire and French colonialism

The first recorded autonomous political entity, in what later became modern-day Lebanon, dates back to 1627 and the establishment of the Mount Lebanon *Imarah* within the Ottoman Empire.[41] At the time, feudal ties formed the basis of the social and political order. The Imarah's autonomy was based on subservience to its Ottoman masters; the *Emir* (prince) was required to maintain social order and deliver the required taxes and observe other obligations to the Sultan in Constantinople.[42] The Sultan partitioned Lebanon into two districts: a northern district under a Christian deputy governor and a southern district under a Druze deputy governor. This arrangement came to be known as the Double Qaimaqamate. It enabled the officials to claim representation of their sectarian communities and, over time, become the powerbrokers for any decision-making.[43]

From the outset, the power brokers had to deal with the emerging need for coexistence among Lebanese communities who suffered inequitable social and economic conditions. Religious and confessional tensions first emerged on record in strife led by the peasants of Keserwan, who were overburdened by heavy taxes in 1820.[44] Maronite peasants rebelled against Druze landlords in Mount Lebanon and the conflict resulted in a new power configuration. The lower clergy of the Maronite Church, which sided with the peasants, became a challenge to the landowners and an immediate patron to political leaders in those areas where tensions arose. The confrontations were, on the surface, motivated by inequity in land and wealth distribution, but they were also confessionally motivated by the Church in its attempt to obtain more political power. Beginning in 1858, poor Maronites began an uprising against the leadership of the Maronite Church in Lebanon who for decades had created a system leading the poor to subservient positions.[45] The revolt spurred other Lebanese to question the feudal ties they had been placed under by their religious leaders. This provoked clashes between Christians and Druze in Mount Lebanon who portrayed each sect as the greater threat.[46] By July 1860, the Druze were victorious and the death toll on the Christian side stood at 11,000.[47]

It was against this background of communal violence that the first power-sharing arrangement was devised, marking the first phase of Lebanon's political system. The Organic Law (*Reglement Organique*) was announced by the Ottoman Empire, backed by a consortium of European powers, on 9 June 1861.[48]

Through a French initiative, an international commission representing the five European guarantors of the agreement was established to suggest reforms for the reorganisation of Mount Lebanon. The French saw the Maronite population of as a way to exert influence and control over a greater population that had few ties with the West as a whole. In the beginning of the French incursion into Mount Lebanon, the government of France supported various Maronite clergymen financially and politically in exchange for Maronite leaders incorporating various parts of French culture and influence into Mount Lebanon.[49]

The *Reglement Organique* transformed Mount Lebanon into a fully autonomous Ottoman province (the Mutasarifiya) with political institutions based on power-sharing among Christian, Druze, and Muslims under an Ottoman-European consortium protectorate.[50] By 1864, tension between the Maronites and the Ottoman governor required substantial modifications to the arrangement. Once again, the foreign powers at the time stepped in and helped reform the administrative council to consist of four Maronites, three Druze, two Greek Orthodox, one Greek Catholic, one Sunni Muslim, and one Shi'a Muslim. This was the first example of proportional communal representation in Lebanon and the practice would be repeated in its first constitution and forthcoming amendments.[51]

The "long peace" following 1864, which reigned in Mount Lebanon during this *mutasarrifiyya* period, made possible the establishment of the foundations of the modern state of Lebanon and also enshrined sectarian power-sharing as the norm and practice in politics.[52] It predicated from the start that political competition was contingent upon sectarian-based opponents who needed to secure a deal to stabilise their geographical and demographic bases. The agreement also offered formal recognition of a "millet system" where ruling sectarian leaders could coalesce with religious organisations to manage the social, economic and personal affairs of citizens within their districts.

Upon the dismemberment of the Ottoman Empire, and by the spring of 1920, agreement had been reached between Britain and France on how the former Arab territories of the defunct Ottoman Empire would be divided between them. On 1 September 1920, the French High Commissioner, General Henri Gouraud, proclaimed the creation of Greater Lebanon (*Dawlat Lobnan Al Kabeer*), which would include the territory of Mount Lebanon, the metropolitan areas of Beirut, Tripoli, Tyre, and Sidon, the regions of Baalbek and the Bekaa, and the districts of Rashayya and Hasbayya.[53] From 1920 to 1922, four successive French governors administered Lebanon.

Faced with a growing nationalist movement in Syria, the French found that governing Lebanon through alliances with the sectarian elite would challenge a common identity and, as such, would limit the opposition to colonialism. A sectarian representation was an expedient solution to governing the various communities and so, as Lebanon moved from Ottoman to French rule, there was little effort at unification and promotion of citizenship outside the recognised sects. To reinforce this, General Gouraud selected a 17-member consultative council, representing the different Lebanese confessions, to assist the governors.

In March 1922, the French High Commissioner sought to establish a more permanent representative body and decreed the creation of a Lebanese Representative Council. The Council, inspired by the experience of the *Mutasarrifiyya*, would comprise 30 deputies elected by general (male) suffrage for a period of four years. The Council was based on confessional representation in proportion to the size of each community as recorded by the census of 1921.[54] Based upon a belief that inter-group cooperation can be encouraged through sectarian representation, this design reinforced sectarianism and increased the power of sectarian leaders, once again perpetuating the "millet" system. This was one of the earliest examples of how sectarianism became the pretext for institutionalising zu'ama claims to power without facing any competition from leaders within their sectarian communities.

Studying how Lebanon moved from colonialism to independence is a study of how sectarian leaders came together to establish a state that guaranteed their own representation – almost indefinitely. Much like the case of Libya, the end of colonialism was a swift change in foreign policy prompting independence, and less of a national grassroots movement with common demands. The Sunni and Maronite leaders emerged as Lebanon's founding fathers and forged the first modern constitution of Lebanon. A new constitution transformed Greater Lebanon into the Republic of Lebanon (*Al Jomhourriya Al-Lubaniya*) on 23 May 1926 and enshrined confessional politics throughout all levels of governance.[55] The 1926 Constitution vested legislative powers in two houses – a senate (*majlis shoyoukh*) and a chamber of deputies, or parliament (*majlis nowwab*). Both houses enjoyed widespread powers including the election of the president, voting confidence in the government, and approval of an annual budget. The two houses elected the president who also enjoyed wide-ranging powers for a three-year term.

The first constitution also guaranteed equal representation for sectarian communities in public posts. This power-sharing agreement increased the influence of a small group of prominent Christian families in Beirut and the Mountain, of Shia and Sunni landowning feudal families on the peripheries, and of Sunni notables in the coastal towns but it did not profoundly change the initial agreement.[56] Sectarian representation became the formal means for political leadership to extract privileges for themselves, their relatives and their clients rather than to protect the interests of their constituencies. Like the French in 1920, the new faces of an independent Lebanon found the old "millet" system the easy solution and reforming it would have threatened their power bases.

3.4 National pact and breakdown of the state (1943–1975)

The second phase of the power-sharing agreement is characterised by the beginning of the civil war and the inability of the state to withhold this agreement. On the eve of its independence from the French, Lebanon's political and social class comprised sectarian groups and ethnicities that came together seeking power, privilege and representation. The National Pact of 1943 (*Al Mithak Al Watany*)

was brokered by the British to secure the country's independence from France. The sectarian system of representation and access to political office therefore also evolved into a pragmatic political strategy. The National Pact was an unwritten agreement between President Bishara El-Khoury (Maronite) and Prime Minister Riad al-Solh (Sunni). The Pact provided a consensual basis for articulating the character of Lebanon's polity, the distribution of power in the country and the shape of its political institutions. The Independence and the National Act of 1943 established a unique consociational system, known as "confessionalism" (*al nizam al ta'ifi*), a power-sharing mechanism based on the guaranteed representation of major religious communities. The National Pact, having included numerically predetermined provisions, would result in future deadlocks that made reform and legislation impossible without consensus and without securing the interests of the sectarian elite.[57]

The unwritten pact enshrined the principles of (i) segmental proportionality of representation in government that is in proportion to the demographic weight of the sectarian groups, and (ii) segmental autonomy to guarantee the rights of sectarian groups to conduct their own religious, educational and cultural affairs.[58] Accordingly, the political institutions that emerged after 1943 were primarily aimed at preserving Lebanon's longstanding tradition of securing the interests of, and resources for, sectarian elites (zu'ama) who served and maintained the loyalty of their constituency. The formula exacerbated the patronage system and turned the legislature to "a private club" where national leaders promoted their protégés and used intimidation and vote buying to secure the election of their lists.[59]

The National Pact granted the Maronite President extensive executive powers and fixed the positions of the House Speaker to a Shi'a and Prime Minister to a Sunni. Powerful political leaders representing the religious communities were considered as guarantors of the nizam ta'ifi, or the confessional consociational order. The zu'ama aligned themselves with the commercial bourgeoisie and worked to ensure a short-lived stability in the realms of politics and the economy between 1943 and 1958. According to Najem, "their co-operation was based on their common interest in keeping the Lebanese state weak, and in maintaining the status quo".[60] But even after independence, the efforts of political leaders were geared not towards the creation of a national civic identity, but towards the fragmentation of identities in order to maintain sectarian loyalties. In tandem, little effort was made to build capable and professional public institutions, but rather efforts were made to the state as a weak actor.[61]

The rise of Nasser in Egypt and the spread of his pan-Arab ideology in the 1950s deeply divided Lebanese confessional politics, contributing to the crisis of 1958 between Maronites and Sunnis. Tensions with Egypt grew when pro-Western President Camille Chamoun angered local groups by his friendly reaction to the Western powers, primarily Britain and France, after their attack on the Suez Canal.[62] Confessional groups mobilised themselves, with Western-backed Christian groups confronting predominantly Muslim factions supported by the Egyptian–Syrian nationalist regimes. This was followed by the US

intervening both militarily and politically to convince both sides of the conflict to reach a compromise and to elect a new President, general Fouad Chehab, who had been commander of the Lebanese Armed Forces since 1945. Despite attempts at administrative reforms, most notably those taken during President Fouad Chehab's term in office (1958–1964), public administration was ponderous and generally inefficient. Chehab came to office after civil strife that had killed 3,000 Lebanese during a standoff between pro-Western and pro-Egyptian nationalist groups.[63]

The tensions were fuelled with the emergence of Palestinian refugees who had set up a base in southern Lebanon and began launching guerrilla attacks on Israel.[64] Chehab was seen as a "compromise" candidate who did not represent either faction.[65] He initiated an aggressive policy towards the Palestinian camps and limited their armed activities. Chehab's short time in office did show that political will coupled with substantial executive powers can drive institutional reform, as he led an effort to establish most of the public agencies still active today, including the Civil Service Board, Central Bank, the Court of Audits, Water and Electricity Providers, and the Central Inspection Board.[66]

During the 1960s, and more so after the 1967 Arab war with Israel, the internal situation in Lebanon was destabilised. The 1967 war resulted in the influx of hundreds of thousands of Palestinian refugees, who represented a greater shock than the Lebanese system could peacefully accommodate.[67] The country became split between two different political factions, one that was mainly Muslim and pro-Palestinian, and one that was mainly Christian and anti-Palestinian. At the end of Chehab's term in 1969, uprisings in the Palestinian camps and pressure from Egypt and other foreign players ended with the November 1969 Cairo Accords between the Palestinian Liberation Organisation (PLO) and the Lebanese state, which authorised Palestinian guerrilla activity in Lebanon.[68]

The Cairo Agreement fuelled the first phase of the Lebanese Civil War, causing polarisation and the armament of militia groups across the country.[69] It is generally agreed that 13 April 1975 marks the beginning of the Civil War. Irrespective of the particular circumstances that led to this clash, it was already preceded by widespread armed conflict between Christian political parties and Palestinian organisations for some years, especially after the expulsion of the Palestinian Liberation Organisation (PLO) from Jordan in 1970.[70] The PLO's presence in Lebanon was a trigger for the sectarian leaders to divide and reposition themselves as either supportive of the armed resistance or fighting against it. The PLO was an alibi for the West to arm Christian militia groups and the Arab states to arm Muslim groups in preparation for a protracted armed conflict on Lebanese soil.[71]

The power-sharing agreement could not produce institutions that can mitigate conflicts and function in a polarised political climate. Lebanon had significant class struggles that were only heightened by the inability of the state to provide security, protection and services without the support of sectarian leaders. As soon as sectarian leaders found it opportune to ally themselves with external

actors to increase their local power bases, they replaced their collusion with confrontation and began sponsoring different armed groups. At the same time, Lebanon's regional environment invited its national leaders to side with, and invite support from, conflicting foreign countries.

3.5 The Civil War (1975–1990): "militant" sectarianism and un-sharing of power

This third phase of the Lebanese political order shows an "un-sharing" of power and is marked by the militarisation of political life. The Lebanese Civil War lasted 16 years, during which the magnitude of damage to the country was staggering. About 170,000 perished, twice as many were wounded or disabled, and close to two-thirds of the population experienced some form of dislocation from either their homes or communities.[72] The war transformed political zu'ama into leaders of armed groups and militias, each with their foreign patrons providing weapons and financial backing. It also epitomised the weakness of a state that was incapable of brokering a political deal, stabilising tensions, or even using its army to end the conflict.

The initial period of the war, between 1978 and 1982, ended both politically and militarily with the Israeli invasion of Lebanon on 6 June 1982. The trigger that expanded the conflict to all parts of the country was the PLO's armed presence, which fuelled polarisation among sectarian leaders. The PLO's presence heightened tensions among confessional groups and gave them ideological grounds for their military activity. The right-wing forces led by the predominantly Christian *Kata'ib* (Phalange) Party formed another bloc called the Lebanese Front. The polarisation and militarisation signalled a period where the power-sharing agreement had failed to maintain stability and caused state institutions to be overridden by non-state armed groups.

On 1 June 1976, Syrian troops entered Lebanon and supported the Lebanese Front in holding back the Palestinian forces.[73] In October 1976, two Arab summits held in Cairo and Riyadh established an Arab Deterrent Force, the majority of which was composed of Syrian troops.[74] The Syrian intervention was motivated by three factors: Syria had historically regarded Lebanon with closeness, even inseparability, and shared deep linkages with Lebanon's social and political developments.[75] The second main factor was Syria's security interests vis-à-vis Israel. Lebanon's southern border was seen by Syria as a defence frontier against any military thrust from Israel to Syria.[76] Lastly, Syria and its regime feared that continued civil war could mean a partitioned Lebanon, which would pose a direct threat to the borders of Syria.[77] The failure of power-sharing to be maintained during the war increased the need for foreign intervention to stop the fighting.

The power-sharing agreement made it difficult for one leader, even the President, to have the upper hand in the conflict and instead dispersed power and weapons among various sectarian groups.[78] The subsequent Israeli invasion in 1982 reduced the PLO's freedom of action and refocused the Palestinian national

struggle back into the Occupied Territories, marking a decrease in their military action from within Lebanese borders.[79] In parallel, the early years of the Israeli occupation saw the emergence of Hezbollah, a newcomer to the Lebanese political scene, for the Shi'a had historically been organised around the Amal movement and that of Moussa Sadr. Hezbollah (Party of God) organised an armed resistance against Israel and allied itself with the PLO fighters in the south of Lebanon.[80] Supported by the Christian Phalangists, the Israeli invasion was seen as a swift and necessary move by the Americans for Israel, one that would also to limit Syria's armed power over Lebanon. The war gave Israel control over Lebanon's Litani River; seizing the water source was also one of Israel's long-term strategic goals.[81] The following phase of the war, June 1982–October 1990, witnessed heightened outside intervention, beginning with the Israeli invasion and concluding with the Ta'if Accord of October 1989 under Saudi auspices.[82]

The foundations of power-sharing and the religious backing that sectarian leaders enjoyed as a result allowed them to forge their own international ties and secure sufficient resources to lead proxy wars in Lebanon. Bashir Gemayel, who was seen by the West as Israel's Lebanese ally, was assassinated within days of his election to the Presidency, and his brother, Amin, was hastily elected to replace him.[83] Following the assassination of Gemayel, Lebanese Phalangist groups angered by the death of their leader, with the Israeli military looking on from surrounding rooftops, entered the Palestinian refugee camp of Sabra and Shatilla, killing at least 1500 Palestinians on the night of Friday 16 September 1982.[84]

The extreme instability and horrific images of the massacre of Palestinians led the US to form a coalition of American, British and French troops to help stabilise Lebanon. Hezbollah's first overt operation was the bombing of US and French forces, killing 299 servicemen in October 1983.[85] The suicide bombing led to a complete withdrawal of the US forces and the confirmation of Hezbollah as a new, serious threat to Israel.[86] Israel began withdrawing from most Lebanese territories, except for a border strip in South Lebanon under the control of Israel's surrogate South Lebanon Army, a force comprising Lebanese Christians. By 1985, Syria had regained most of the power over Lebanese affairs that it had lost to the Israelis and Americans in 1982.

The Civil War became increasingly inter-sectarian and witnessed battles between Lebanese factions. In December of 1985, with the encouragement and support of the Syrians, representatives of the dominant confessional militias, the Christian Lebanese Forces, the Shi'a Amal Movement, and the predominantly Druze Progressive Socialist Party, met in Damascus and reached an agreement, known as the Tripartite Agreement, on political reforms and special relations with Syria.[87] By early 1986 the Tripartite Agreement was nullified after President Gemayel and Samir Geagea (intelligence chief of the Lebanese Forces) organised a coup against the Lebanese Forces' leader Elie Hubayka, and ousted him from his position. The ouster and the resulting failure of the Tripartite Agreement was a result of the lack of a sharing of power, as the agreement did not provide for representation of the warring factions in such a

way that would motivate them to end the violence. A state of political deadlock prevailed in Lebanon between 1986 and the end of President Gemayel's term in September 1988.

At the end of Gemayel's term, the failure to elect a new president led to a complete political vacuum at the top of the Lebanese state. The deadlock was another facet of the failure of power-sharing to maintain state institutions during the conflict. Gemayel appointed an interim cabinet headed by Army commander Michel Aoun, but the cabinet's authority was only accepted in the predominantly Christian areas; in West Beirut and other regions of the country the original cabinet headed by Salim al-Hoss was regarded as the legitimate cabinet. The two cabinets were trying to function at the same time and claimed exclusive legitimacy. The subsequent war between Aoun and the Lebanese army had devastating human and political consequences, and instead of curtailing the Syrian presence in Lebanon, it caused an increase in the number of Syrian troops from around 30,000 to 40,000. In 1990, Syrian troops re-entered East Beirut and other predominantly Christian areas that they had been forced out of in 1978 during battles with Lebanese Forces armed groups.[88]

Lebanese deputies met in the city of Ta'if in Saudi Arabia to discuss national reconciliation on the basis of a document that had already largely been prepared by the Arab Tripartite Committee after much consultation with Syria, the United States and various Lebanese leaders. They reached an agreement on 22 October 1989 and the resulting treaty was known as the Ta'if Agreement or the National Accord Document (*wathikat al wifak al watany*)[89] and represented the outcome of political reconciliation among the Lebanese, supported by the Syrians and the international community.[90] The United Nations Security Council Declaration on 31 October 1989 supported the agreement and the Lebanese authority resulting from it.

On 30 January 1990, another conflict broke out, this time between the army led by Aoun and the Lebanese Forces militia.[91] This inter-Maronite war diminished the capacities of both forces to effectively reject or alter any political compromise, represented by the Ta'if Agreement, that had been reached and that was in the process of implementation. An inter-Shia war took place between the two Shi'a forces: Amal and Hezbollah. During the war, these two groups had been openly siding with the PLO's armed resistance and had formed guerrilla bases in the South of Lebanon and the southern suburbs of Beirut.[92] The Ta'if agreement alone could not stop the war, it required foreign powers to substantiate and local zu'ama to adopt it before the war could come to an end.

3.6 Post-war Lebanon (1990–2003): the Tai'f Agreement and Syrian patronage

Aside from the massive cost in human lives, and the displacement of thousands of people, the war brought in its wake economic havoc. This fourth phase of the power-sharing agreement put the Syrian regime as the predominant actor in local politics. The war led to a "crisis of state", whereby public institutions were weakened and the state once again called for sectarian leaders and religious

institutions to step in and assist in development and reconstruction.[93] The settlement of the war in Lebanon by the Ta'if Accord was based on the reaffirmation of the principle of sectarian power-sharing. It enhanced the position of the Sunni Prime Minister as well as that of the Shi'a Speaker of the House, while curtailing some of the privileges that the Maronite President of the Republic had enjoyed.[94] This redistribution of power created the need for consensus among the three major sectarian leaders on all policies and decisions of the government, which further weakened the possibility for state institutions to provide oversight and accountability. The Accord specified equal representation for the communities in Parliament. The principle of equal representation continued to apply in the Council of Ministers. The essence of the political system thus remained unchanged from pre-war Lebanon. The Accord was negotiated by parties in the conflict and by the Parliament that had been elected in 1972, before the outbreak of the violence; perhaps unsurprisingly, the Agreement brought the same faces and families back into power.[95]

The Ta'if Accord specified in its Section 1 that, "Efforts will be made to achieve comprehensive social justice through fiscal, economic and social reforms". In Section 2 the Accord stipulated that the electoral district shall be based on the governorate (*muhafaza*), that the parliamentary seats were to be divided provisionally equally between Christians and Muslims and proportionately among the denominations of each sect. It also stipulated, "With the election of the first Chamber of Deputies on a national, not sectarian, basis, a senate shall be formed and all the spiritual families shall be represented in it". While the Accord specified the body that is supposed to initiate the process of national dialogue with the aim of reaching national agreement on the elimination of political sectarianism, it did not set a time frame for this purpose.[96] At the time of writing, 18 years after the end of the conflict, this body has yet to be created.

In general, the gradual revival of the state and its institutions only partially took place. The transition from war to peace between 1990 and 1992 was too swift to allow for any process of reconciliation and of state building. Public institutions were under-staffed and were barely able to perform daily administrative functions, while most buildings were war-torn.[97] Rampant corruption was indicative of the post-war distribution of resources and resulted in the subjugation of state institutions to the interests of the sectarian elite.[98] Three parliamentary elections were held in 1992, 1996 and 2000, respectively. After the war, most militias were disarmed, with the exception of the armed resistance against the Israeli occupation of the southern strip of the country, led by Hezbollah, which was permitted to continue.[99]

Of relevance to this phase of the power-sharing system are two major breaches to the Accord. The first was the beginning of negotiations outside the Council of Ministers, which began in 1992. The "Troika", a grouping comprising the President, the Speaker and the Prime Minister, began, in close collaboration with the Syrian leadership, to dominate political life and to become the effective decision-making body. This meant that the parliament and executive branches were rendered ineffective and domestic as well as foreign policy issues

were settled outside these institutions. The second breach of Ta'if was the long-lasting role of the Syrian military, leadership and intelligence services in Lebanon's affairs.[100] After the Gulf crisis in 1990, the US had the added concern of containing Iraq and gaining Syrian support for the Gulf War coalition. It is often noted that Syria's hegemony over Lebanon was supported by the Americans in return for Syria's role in the First Iraq War.[101] The end of the Cold War and the collapse of the Soviet Union strengthened American influence in the Middle East and allowed it to pursue its policy objectives in Lebanon and other parts of the region. The US supported the Ta'if negotiations and lent its support, both in Arab circles and through Syria, to the successful completion of those talks. Despite the end of the war being a critical juncture for Lebanon, the following era of Syrian tutelage reinforced sectarianism and foreign patronage through granting specific Ministries to pro-Syrian Sunnis, Shi'a, Druze or Maronites, depending on agreements among sectarian leaders.[102]

Initially, the main priorities of political leaders were security and the re-establishment of public institutions. But pressures from Damascus and the post-war economic strains led to the resignation of three short-lived governments.[103] The fourth post-war government was headed by Rafik Hariri (a Lebanese Sunni billionaire). Hariri had played a major role in Lebanon's post-war politics and reconstruction. Hariri remained prime minister, heading three consecutive governments, until the election of Emile Lahoud as president in November 1998. The first government following the election of Lahoud was headed by Salim el Hoss. After the parliamentary elections of September 2000, however, Hariri again headed a new government. In March 2003, he tendered his resignation, only to be asked once more to head the new government again in April. Hariri's terms in government before 2000, perhaps in a similar manner to that of Chehab, were supported by three main factors. He was liked by the international community and boasted friendships with the world's most powerful leaders.[104] He also had the support of other political leaders to undergo a number of economic reforms that boosted the country's capital, Beirut, and revived a number of commercial and touristic sites.

In pre-war Lebanon, the most common way of accessing benefits and services was through *wasta* or the equivalent of joining clientelistic networks controlled by political leaders or *zu'ama*. The Civil War disrupted these networks and replaced *zu'ama* clientelism with a new and more complex mix of clientelistic networks developed around militias, parties, resistance groups and charities. The Civil War brought new *zu'ama*, who benefited from the sectarian system to reinforce their power over state institutions. What emerged was a Syria-supported power-sharing system that enabled the pro-Syrian elite to rise to power while maintaining the argument of coexistence through the *nizam ta'ifi*.[105]

3.7 Post-Syrian Lebanon: sectarianism enshrined (2004–2010)

The withdrawal of Syrian troops from Lebanon for some observers in the international arena, as well as many of the Lebanese local groups, was meant to indicate a new era in Lebanese politics. Yet as the years between 2005 and 2009

would show, this fifth phase was characterised by more civil and political freedoms, but also the continuation of the basic form of sectarian power-sharing. The power-sharing formula meant that no economic, social, security, or political reform could happen without the consensus of sectarian leaders. Those same leaders who had been involved in the Civil War – 12 out of 14 political parties currently represented in parliament existed as wartime militias[106] – could not arrive at a consensus that served their interests, and political deadlocks and civil strife would become frequent in post-2005 Lebanon.

The events that paved the way for Syria's withdrawal were largely exogenous. That is not to say that there were no internal factors that accompanied the withdrawal, but the momentum came from the changing foreign policies of international actors, and the US in particular.[107] Opposition against Syria from within Lebanon was weakened and the groups that had been outspoken were silenced through oppressive political, civil and media strategies that took place under Syrian tutelage. Crackdowns on demonstrators, journalists, student movements, unions and civil society leaders made it impossible to speak openly about Syrian interventions in Lebanese affairs.[108] The attacks of 9/11, the beginning of the "war on terror", and the subsequent US invasion of Iraq, initiated a new era in US foreign policy. Syria openly opposed the US-led invasion in 2003; Syria, which had always been supportive of armed resistance against Israel in Lebanon, aligned itself even more closely with Hezbollah and Iran. Syria's support provided Hezbollah with wide military and political backing throughout its areas of control and over the functioning of government.[109] Following the 2003 invasion of Iraq, the United States envisioned a democratic domino effect in the region, launching a Middle Eastern democratic agenda known as "The Greater Middle East Initiative".[110]

President Bush signed *The Syria Accountability and Lebanese Sovereignty Restoration Act of 2003*, which imposed various economic and political sanctions against the Syrian regime for its alleged support of Hezbollah.[111] This Act called on Syria to immediately declare its commitment to completely withdraw its armed forces, including military, paramilitary, and security forces, from Lebanon, and set a firm schedule for such withdrawal. Sensing US resolve, anti-Syrian confessional groups in Lebanon, mainly Maronite, Druze, and Sunni, initiated a campaign against the Syrian presence in Lebanon (known as the Bristol Gathering).[112] They were opposed by pro-Syrian groups, led primarily by the Shia and largely assembled around the Ain Al-Teenah Camp. The confessional divide, much like that of war time Lebanon, continued to polarise the Lebanese and left the state unable to mitigate between two camps with competing interests.

By the end of 2004, relations between Syria, on the one side, and Western powers, primarily France and the US as well as pro-Western Sunni Arab states such as Saudi Arabia and Egypt, on the other, further deteriorated, with the latter accusing Syria of supporting the anti-American insurgency in Iraq as well as arming the Shi'a Hezbollah in Lebanon. Syria responded in Lebanon in September 2004 by implementing an extra-constitutional measure that extended

pro-Syrian president Emile Lahoud's term in office for an additional three years. In turn, the US, France, and the UK reacted by passing UN Security Council Resolution 1559, demanding the immediate withdrawal of Syrian troops from Lebanon. What followed was the commencement of retaliatory violence against anti-Syrian political leaders that began with the attempted assassination of MP Marwan Hmadeh in October 2004. On 14 February, a massive bomb led to the assassination of the Prime Minister of Lebanon, Rafik Hariri, and 25 other civilians including former Minister of Finance, Bassel Fuleihan.

The Hariri assassination plunged Lebanon into intense polarisation, but this polarisation would not mean the end of the basic power-sharing agreement, and subsequent Cabinets were comprised of actors from opposing factions. Because the basic foundations of the state rested on the agreement of sectarian leaders, even opposition and polarisation among them would need to be mitigated to maintain an independent Lebanon. The Shi'a factions were backed by Iran and Syria, while Maronite, Druze, and Sunni groups were supported by the US, France, and Saudi Arabia. On 8 March 2005, the Hezbollah-led factions organised a demonstration to "thank Syria" and display their loyalty to the Assad regime.[113] On 14 March, one million protestors took to the streets to demand Syria's withdrawal from Lebanon, chanting slogans accusing the Assad regime of Hariri's assassination. The two factions came to be known as "March 8", comprised of pro-Syrian and pro-Iranian blocs, and "March 14", comprised of anti-Syrian and pro-US blocs. This polarised political dynamic is one of the reasons why the withdrawal of Syria from Lebanon can be considered a partially critical juncture.

The 14 March protest was depicted by its supporters and Western media as a "Cedar Revolution" or as the "Independence Intifada", implicitly stating that it would lead to a new phase of freedom, sovereignty and democracy in Lebanon, and it took its name from the cedar trees that are a symbol of Lebanon.[114] Activists claimed that the 14 March movement was cross-sectarian and reformist in nature. The "March 14" movement promoted itself as able to bring about a Lebanon "spring" after the dark winter that Syria's domination over Lebanon represented.[115] Notwithstanding the polarisation at the time, March 14's momentum did create a relative opening up in Lebanon's political system, but this opening up was restricted to the newly found freedom of political agents to speak up against Syria.[116]

In April 2005, Syrian troops withdrew from Lebanon and in June 2005 the country held its first elections free from Syrian tutelage. For now, suffice to say that the elections witnessed an entrenchment of sectarian strife, sectarian discourse, and again a sectarian division of power. Salamey and Payne, for example, describe the results of these and other elections as a type of "quotated" confessional representation within the legislative in Lebanon.[117] The elections also took place against the backdrop of a series of assassinations that claimed the life of anti-Syrian critics, including Samir Kassir.[118] The assassinations continued until the end of the year with car bombs killing journalists, political actors, and civilians.

While the political order was struggling to find stability in the aftermath of Syria's withdrawal, a crucial event would prove extremely damaging for the country. On 12 July 2006, Hezbollah's abduction of two Israeli soldiers along the Lebanese–Israeli border led to the outbreak of a large-scale war in Southern Lebanon, which resulted in the destruction of much of Lebanon's infrastructure and the death of 160 Israeli and 1,500 Lebanese civilians.[119] Israel's disproportionate retaliation to Hezbollah's seizure of the two soldiers led to international calls for the application of United Nations Resolution 1559.[120] During the 34-day war, Lebanese politicians made a show of unity regarding the war with Israel, but as soon as the conflict subsided the camps of "March 8" and "March 14" displayed their opposition to each other again.

By December 2006, the newly forged coalition between Hezbollah and the Maronite leader Michael Aoun (who returned from forced exile in France) orchestrated a popular campaign to topple the "March 14" dominated cabinet and parliament. Hezbollah claimed a "divine victory" over Israel and tens of thousands of supporters called for the resignation of the "March 14" Cabinet led by Fouad Seniora.[121] Two days after Hezbollah's gathering, the Lebanese Forces staged a counter-rally in the Christian area of Harissa in which they called for Hezbollah's disarmament and pledged their support for Seniora's cabinet.[122]

This clash of demands crystallised with the resignation of pro-Syrian Shi'a ministers from the cabinet in December 2006, followed by the initiation of a massive year-long sit-in by the "March 8" camp in downtown Beirut surrounding the Grand Serail (the Prime Minister's Office). The refusal to recognise the legitimacy of the existing Cabinet on the grounds of its lacking consociationalism, the blocking of parliament from inaugurating a new president, and the Prime Minister's attempt to tamper with Hezbollah's telecommunications network, finally resulted in a Hezbollah-led armed insurgency in the capital during May 2008.[123] This led the Arab League to endorse the diplomatic initiative, to the perceived neutral state of Qatar, in settling the Lebanese sectarian crisis. This came to be known as the Doha Agreement, which split the electoral districts once again among sectarian groups and signalled a new era of the deep enshrining of sectarian representation in the executive and legislative branches of the Lebanese political system.[124]

3.8 Power-sharing intricacies in the case of Lebanon

This chapter has presented the historical and contemporary roots for Lebanon's state system. Lebanon's sectarian power-sharing system has remained intact despite war and rounds of conflict exacerbated by external intervention. At each juncture, the power-sharing agreement was threatened enough to cause the state to break down, but not enough to cause political leaders to reconsider it as a system. This is because the power-sharing system is self-serving for the zu'ama of the major sectarian groups. It reinforced patron–client relations that began with feudal lords in the Ottoman era, who transformed into militia leaders during the war and remerged with pro-Syrian allies after the war. The periods reviewed

here show how the state is incapable of mitigating tensions that arise because of sectarian struggles over resources and foreign policies. It is also unable to promote a unified sense of citizenship and identity in the face of grand sectarian zu'ama who keep citizens polarised and subjugated to the need to be protected by these very leaders.

The Lebanese state is a tool that political leaders compete over and use to advance their own interests. By enshrining the three notions of coexistence, zu'ama and nizam ta'ifi, the political order is a priori opposed to reforms that would enhance a sense of citizenship outside of sectarian confines. Appeal and loyalty are to sectarian, not state, leadership, which again reinforces a weak state system. The next chapter is a case study on the attempts to reform the electoral system and therefore encourage political competition outside of solely sectarian groups.

Notes

1 Beydoun, Ahmad. "Movements of the Past and Deadlocks of the Present". *Choueiri, Breaking the Cycle* 15 (2007) 15:3.
2 See for instance the Lebanon "model" praised as a potential solution for the conflict in Syria by Stephen Rosiny, "Power-Sharing in Syria: Lessons from Lebanon's Ta'if Experience", *Middle East Policy* 20, no. 3 (2012): 41–55.
3 See Fakhoury, "Debating Lebanon's Power-sharing Model: An Opportunity or an Impasse for Democratisation Studies in the Middle East?" *Arab Studies Journal* 22, no. 1 (2014): 230–255, and Ralph Crow, "Religious Sectarianism in the Lebanese Political System", *The Journal of Politics* 24, no. 3 (1962): 489–520.
4 Simon Haddad, "Lebanon: From Consociation to Conciliation", *Nationalism and Ethnic Politics* 15, no. 3–4 (2009): 411.
5 Iliya Harik, "Toward a New Perspective on Secularism in Multicultural Societies", in *Lebanon in Limbo*. Edited by Theodor Hanf and Nawaf Salam (Berlin: Nomos Verlagsgesellschaft, 2003).
6 The sectarian homogeneity of political parties cited historically by scholars was evident again in research I conducted on the 14 political parties currently represented in Lebanon's parliament. See Carmen Geha, "Role of Lebanese Youth in Elections and Political Parties: A Comparative Study" (Beirut: United Nations Development Program, 2013).
7 For an explanation and implications of this see Lamia Rustom Shehadeh, "The Legal Status of Married Women in Lebanon", *International Journal of Middle East Studies* 30, no. 4 (1998): 501–519.
8 The first law proposal on civil status was prepared and advocated for in 1971 by legal experts Abdullah Lahoud, Norma Melhem and Joseph Moghaizel but was adopted only by a small party at the time called the Democratic Party. In 1998, former Lebanese President Elias Hrawi proposed an optional civil status law that was rejected by parliament, and again in 2007 an NGO Nahwa el Muwatiniya in collaboration with the Civil Centre for National Initiative launched a campaign to demand removal of reference to sect from civil registries that led to the issuance of a decree in 2009 by former Minister of Interior Ziad Baroud declaring this right not to refer to sect in the national identity cards as a "constitutional right".
9 "Toward a Citizen's State. Beirut: National Human Development Report" (Beirut: United Nations Development Program, 2009), 70.
10 "A Step Close to a Civil Status Law?" *Now Media*, 31 January 2014, https://now.mmedia.me/lb/en/reportsfeatures/533357-a-step-closer-to-a-civil-status-law   (24 April 2014).

11 See Illiya Harik, "Voting Participation and Political Integration in Lebanon 1943–1974", *Middle East Studies* 16, no. 1 (1980): 27–48 and more recently Imad Salamey and Rhys Payne, "Parliamentary Consociationalism in Lebanon: Equal Citizenry vs. Quotated Confessionalism", *The Journal of Legislative Studies* 14, no. 4 (2008): 451–473.

12 On how this causes rampant corruption see Charles Adwan, "Corruption in Reconstruction: The Cost of National Consensus in Post-War Lebanon", Centre for International Private Enterprise www.cipe.org/sites/default/files/publication-docs/adwan.pdf (2004) (accessed 10 June 2014).

13 Charbel Nahas, "Finance and Political Economy of Higher Education in Lebanon", in *Financing Higher Education in Arab Countries*. Edited by Ahmad Galal and Taher Kanaan (Beirut: Economic Research Forum Report 2010), 49–86.

14 Jad Chaaban and Karin Seyfert, "Faith-based NGOs in a Multi-Confessional Society: Evidence from Lebanon" (Beirut: Arab Centre for Research and Policy Studies, 2012), 1–21.

15 Karim Elbayar, "NGO Laws in Selected Arab States", *International Journal of Not-for-Profit Law* 7, no. 4 (2005): 3–27.

16 See Danyel Reiche, "War minus the Shooting? The Politics of Sports in Lebanon as a Unique Case in Comparative Politics", *Third World Quarterly* 32, no. 2 (2011): 261–277.

17 See a survey of Lebanese parties in Farid Khazen, "Political Parties in Post-War Lebanon: Parties in Search of Partisans", *Middle East Journal* 57, no. 4 (2003): 605–624.

18 See for example Melani Cammett, "Partisan Activism and Access to Welfare in Lebanon", *Studies in Comparative International Development* 46, no. 1 (2011): 70–97.

19 See for instance Engin Akarli, *The Long Peace: Ottoman Lebanon 1961–1920* (Berkeley: University of California Press, 1993).

20 On the National Pact and its effect on citizen and voter behavior see Harik, "Voting Participation and Political Integration in Lebanon".

21 See for example some of the earliest accounts of this by Jacob Hurewitz, "Lebanese Democracy in its International Setting", *The Middle East Journal* 17, no. 5 (1963): 487–506 and more recently in Elizabeth Picard, *Lebanon – A Shattered Country: Myths and Realities about the Wars in Lebanon* (New York: Holmes and Meier, 2002).

22 See for instance Michael Kerr, *Imposing Power-Sharing: Conflict and Coexistence in Northern Ireland and Lebanon* (Dublin: Irish Academic Press, 2005) and Richard Hrair Dekmejian, "Consociational Democracy in Crisis: The Case of Lebanon", *Comparative Politics* 10, no. 2 (1978): 251–265.

23 See for instance the seminal work by Theodore Hanf, *Co-existence in Wartime Lebanon: Decline of a State and Rise of a Nation* (London: Centre for Lebanese Studies and IB Tauris, 1994).

24 Ibid., 24.

25 For example in 2006 when right-wing party the Free Patriotic Movement led by Michel Aoun signed a strategic pact with Hezbollah leader Hassan Nasrallah, Aoun referred to it as an attempt at enshrining coexistence between Christians and Shia, see more about how this alliance strengthened both power bases of Nasrallah and Aoun in Eyal Zisser, "Nasrallah's Defeat in the 2006 War: Assessing Hezbollah's Influence", *Middle East Quarterly* 16, no. 1 (2009).

26 The assertion is echoed by recent research on the politics of sectarianism by Diane Riskedahl, "The Sovereignty of Kin: Political Discourse in Post-Ta'if Lebanon", *Political and Legal Anthropology Review*, 34, no. 2 (2011): 233–250.

27 See Are Knudsen, "Acquiescence to Assassinations in Post-War Lebanon?" *Mediterranean Politics*, 15, no. 1 (2010): 1–23.

28 United Nations Development Program, "Towards a Citizen's State", 26.

29 See Carolyn Gates, *The Merchant Republic of Lebanon: Rise of an Open Economy* (London: The Centre for Lebanese Studies and IB Tauris, 1998), 23–50.

30 "Quality of Public Services" (Beirut: Beyond Reform & Development, 2012).

31 Cammett and Issar, "Bricks and Mortar Clientelism".

32 Lebanon's Constitution promulgated 23 May 1926 stated representation in parliament but in practice these positions became the rule.

33 Omar Abi Azar, founder of the movement to bring down the sectarian system in 2011 (*Iskat Al Nizam Al Ta'ifi*), interview with author, Beirut, March 2012.

34 This is why founders of the movement to bring down the sectarian system in 2011 say they failed, while other Arab countries had one dictator, Lebanon had several dictators maintaining a strong sectarian system that cannot be brought down by popular pressure for reform.

35 Michael Dawahare, *Civil Society and Lebanon: Toward a Hermeneutic Theory of the Public Sphere in Comparative Studies* (Florida: Brown Walker Press 2000).

36 Bassel Salloukh, "The Limits of Electoral Engineering in Divided Societies: Elections in Postwar Lebanon", *Canadian Journal of Political Science* 39, no. 3 (2006): 635–655.

37 Hanna Ziadeh, *Sectarianism and Inter-communal Nation Building in Lebanon* (London: C. Hurst and Co, 2006), 146.

38 See for instance Salamey and Payne, "Parliamentary Consociationalism in Lebanon", and Dekmejian, "Consociational Democracy in Crisis: The Case of Lebanon", 257.

39 Of relevance here is the conciliatory form of Lebanese politics placing power in the hands of non-state leaders as explained most recently by Simon Haddad, "Lebanon: From Consociationalism to Conciliation", *Nationalism and Ethnic Politics* 15, no. 3–4 (2009): 298–416.

40 See a more detailed documentation of this by Cammett and Issar, "Bricks and Mortar Clientelism".

41 Kamal Salibi, *A House of Many Mansions: The History of Lebanon Reconsidered* (London: IB Tauris, 1993).

42 Ibid.

43 Seaver, "The Regional Sources of Power-sharing Failure", 247.

44 Marie-Joelle Zahar, "Foreign Interventions, Power-sharing and the Dynamics of Conflict and Coexistence in Lebanon", in *Lebanon since 2005: Dynamics of Conflict and Consensus*. Edited by Are Knudsen and Michael Kerr (Paris: Presses Universitaires de France, 2012).

45 Kamal S. Salibi, *The Modern History of Lebanon* (New York: Frederick A. Praeger, 1965), 80.

46 Attila Aytekin, "Peasant Protest in the Late Ottoman Empire: Moral Economy, Revolt, and the Tanzimat Reforms". *International Review of Social History* 57, no. 2 (2012): 191–227.

47 Hurewitz, "Lebanese Democracy in Its International Setting", 492.

48 Khalaf, *Civil and Uncivil Violence in Lebanon*, preface.

49 Elaine C. Hagopian, "Maronite Hegemony to Maronite Militancy: The Creation and Disintegration of Lebanon". *Third World* Quarterly 11, no. 4 (1989): 101–117.

50 William Polk, *An Opening of South Lebanon, 1788–1840: A Study of the Impact of the West on the Middle East* (Cambridge: Harvard University Press, 1963), 172.

51 Ibid.

52 Ibid.

53 See for example Salibi, *A House of Many Mansions*.

54 Meir Zamir, *The Formation of Modern Lebanon* (London: Croom Helm, 1985), 142.

55 Leonard Binder, *Politics in Lebanon*, (Ann Arbor: University of Michigan, 1966), 130.

56 Zamir, *The Formation of Modern Lebanon*, 31.
57 Allison McCulloch, "Consociational Settlements in Deeply Divided Societies: The Liberal-Corporate Distinction", *Democratization* 21, no. 3 (2014): 501–518.
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68 Suleiman, "The Current Political, Organisational and Security Situation in the Palestinian Refugee Camps", 66–80.
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70 Samir Makdisi, *The Lessons of Lebanon: The Economics of War and Development* (London: IB Tauris, 2004), 129.
71 Krayem, "The Lebanese Civil War and the Ta'if Agreement", 416.
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88 Ibid., 418.
89 It is referred to as an "accord" but in Arabic the term *wifak* means conciliation so the agreement carries a conciliatory notion among conflicting parties.
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93 McCallum, "The Role of the Maronite Patriarch in Lebanese History", 924.
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121 Fakhoury-Muhlbacher, "The July War and its Effects on Lebanon's Power-sharing", 6.
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123 Salamey and Payne, "Parliamentary Consociationalism in Lebanon", 459–460.
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4   Activism and electoral non-reform in Lebanon

I have always voted for the same za'im and my children now do the same. What do you expect us to do? There's no state here to protect us.

Anonymous, Lebanese voter

4.1 Introduction

Lebanon has held frequent elections since 1943 with only two exceptions. The first exception was when parliament automatically renewed its mandate at the peak of the Civil War (1975–1992), and the second most recently in 2013 amidst deep polarisation and disagreement over an electoral law. Although Lebanon has a longstanding electoral tradition and is formally a parliamentary democracy, no fixed and permanent law regulates Lebanon's electoral process. Prior to each election, the elected parliament would convene to enact a new electoral law thereby changing districts, voting procedures and campaign regulations. This practice has long encouraged gerrymandering that favoured the status quo in sectarian representation. The fact that the law is designed and enacted periodically by parliament allows legislators to skew the electoral rules, providing an advantage to parties and representatives that are in power. As such, the actual legislative role of parliament becomes less of an oversight institution and more of a reinforcement tool in the hands of the sectarian zu'ama who initially nominated candidates for the incumbent parliament. Lebanon as a case will shed light on an under-theorised area of electoral systems; that which focuses on how electoral institutions are designed to maintain a status quo, specifically in power-sharing systems. Thus, by looking at the unheeded calls by civic organisations for reform this chapter will highlight how Lebanon's political leaders adapt electoral institutions.

This chapter has two main objectives. First, it presents key historical trends in Lebanese elections and electoral processes. Second, it analyses the main continuities and breaks between the period of Syrian tutelage and the post-2005 elections. I argue that the reforms undertaken in 2008 were only partially significant and that the electoral system has remained largely intact following the critical juncture of 2005. I present a case study on electoral reform between the period of 2005 and 2010 to demonstrate how the *nizam ta'ifi* and its sectarian leadership

undermined the opportunity for reform after 2005. The critical juncture in this case is the mass anti-Syrian uprisings in the spring of 2005. The criticality of the moment is analysed against the propensity for electoral reform in the period that followed. The uprising as a critical juncture builds on Capoccia and Kelemen's definition as a moment where "the probability that actors' choices will affect outcomes decreases after the critical juncture, this definition suggests that their choices during the critical juncture trigger a path-dependent process that constrains future choices".[1] The chapter will show how the merely partial changes to the electoral system constrained future possibilities for reform and reinforced path dependency in the electoral law and practice.

The chapter comprises six sections. I begin with a background on the electoral system under Syrian tutelage between the periods of 1992 and 2004. Then I present an analysis of the post 2005 elections, highlighting the main pillars of continuity in the electoral process. The fourth section appraises the reform experience between 2005 and 2008 and the role of the Civil Campaign for Electoral Reform (CCER) in the years that followed Syria's withdrawal from Lebanon. I then present the findings of the 2009 electoral observation mission and explain these findings as elements of continuity from the Syrian, and even pre-Syrian, era. Lastly, I conclude with the political and conceptual implications of the electoral reform process in Lebanon as having been only partially reformist due to the *nizam ta'ifi* and the sectarian foundations that favour coexistence (*aish moshtarak*) over public interest (*maslaha aama*) and citizenship (*muwatiniya*). Thus, I argue, the elections of 2005 and 2009, which could have been critical junctures, were therefore only partially critical and could not overcome the institutional constraints that produced sectarian path-dependent outcomes.

4.2 Background to the Lebanese electoral process (1992–2004)

The Lebanese power-sharing model allows for political actors to create an electoral process and institutions that rely on sectarianism as the basis of voting and of candidacy. As such they can also be considered as sharing the same "agency preferences" that limit the dynamism of electoral institutions and favour the status quo.[2] In themselves, elections comprise important junctures every four years that could reconfigure power and political representation. But the Lebanese elections have little capacity to be junctures that moderate conflict, and instead have exacerbated communal identities, consequently leading to reinforcing the role of zu'ama in the parliament.[3] The blurry lines between public institutions, political parties, and the media have historically made Lebanese elections more plutocratic than democratic and characterised by heavy expenditures and vote buying.[4] This section describes the influence of these electoral institutions as the key to understanding the way in which the electoral reform process stood little chance between 2005 and 2010.

The Syrian troops that had entered Lebanon during the war were to withdraw within two years according to the Ta'if agreement in 1989, but Syria ended up only reducing the number of troops in the country and increasing its political

influence through its extensive intelligence apparatus (*mukhabarat*).[5] For the duration of its tutelage (*wisaya*), Syrian forces and intelligence orchestrated the parliamentary elections of 1992, 1996 and 2000 by manipulating the electoral law, nominating parliamentary candidates, and even forcing parliament to amend the constitution in order to maintain a pro-Syrian leadership.[6] Of direct relevance to the reform argument are the three ways in which the Syrian regime "manufactured" or manipulated, the electoral process prior to 2005: districting, media, and intimidation or bribery of voters.[7]

Districting is the electoral choice of geographically dividing a country into electoral partitions and assigning a number of representatives to each district. This use of districting allowed Syria with its Lebanese allies to manipulate the intent of the Ta'if Agreement, which stipulated that elections would be held on the basis of large districts or governorates (*muhafazat*). Large districts would require candidates to appeal to a multi-sectarian constituency in order to win.[8] But in 1992 and 1996, the parliament, under Syrian pressure, reduced the districts to the Qada level, which reduced the size of the constituencies significantly and enabled pro-Syrian allies to win in the districts of Bekaa, Mount Lebanon, and Beirut.[9] The 1992 elections were the first after the Ta'if Agreement and are a clear example of how the electoral law was created under pressure from the Syrian regime. The engineering of small districts was a grave violation of Ta'if and ensured that a sectarian numerical majority would favour a greater voice for pro-Syrian Muslim constituencies.[10] In particular, the first post-Civil War elections in 1992 were gerrymandered in favour of Syria's allies and, as a result, were boycotted by Christian and Muslim parties opposed to the Syrians.[11] The elections in 1992 were not only uncompetitive, but were in favour of another state.[12] This selective strategy by the Syrians continued in the next elections.

The 1996 electoral law was passed by the 1992 parliament and led to pro-Syrian candidates winning 95% of parliamentary seats.[13] Again, the districts were kept small and any opposition or non-conformity by voters was met by blatant intimidation.[14] In the 2000 elections, the districts were reorganised after a series of meetings between Syrian intelligence and senior Lebanese officials, who divided the *muhafazat* into only 14 districts, combining together districts that were not geographically contiguous and were not consistent in size.[15] Although the 2000 elections took place after the death of Syrian President Hafiz al-Assad, his son and successor Bashar did not change this pattern, but merely increased Syria's patronage and support for local pro-Syrian zu'ama.[16] In addition, the 2000 elections tampered with the number of parliamentary representatives, again violating the Ta'if agreement by increasing the number of seats in the pro-Syrian areas of the Bekaa and North Lebanon by 50% and decreasing the representatives of the anti-Syrian electorates in Beirut and Mount Lebanon by 20%.[17]

The media in the 1992, 1996 and 2000 elections adopted a straightforward strategy of promoting pro-Syrian candidates and making it difficult for opposition or independent candidates to get any space for visibility and the promotion of their platforms.[18] It is important to note that the post-war pro-Syrian political

elite, who joined the first Cabinet after the Ta'if agreement, directly owned Lebanese media stations.[19] Campaigning also made use of public spaces such as municipalities, religious institutions, and government offices to support candidates. This misuse of public spaces was an indication of how the post-war weak state institutions were a tool in the hands of zu'ama who favoured Syria.[20] Public authorities weakened by the war were turned into campaign offices for parliamentary candidates.[21] One blatant case was that of the Syrian-backed list headed by the then Interior Minister Michel el Murr who was also responsible for administering the elections. Minister Murr used municipal workers to tear down his opponent's pictures in the Metn districts and replace them with his pictures.[22]

Another major tool for electoral tampering was vote buying and intimidation of voters. In the absence of pre-printed ballot papers in the elections before 2005, candidates would discover the voter's choices and resort to repression, threat or violence unless voters could be proven to have voted for the list of the local za'im.[23] Under Syrian tutelage, voters were not required to vote behind curtains, which were intended to protect them from intimidation and ensure the secrecy of their choices.[24] At the time, government officials claimed that voter secrecy and use of the curtain was "optional".[25] Instead, representatives of candidates would clearly instruct voters entering the polling stations to cast their votes openly. At the same time, representatives of independent or opposition candidates were routinely refused entrance to polling stations and were escorted out, or even arrested.[26] Reports of vote buying were all over the news. Owing to the clientelistic system, vote buying and vote "trafficking" in the post-Ta'if elections took on a variety of forms. One way was direct bribery by paying small amounts of cash, another way was through naturalising citizens[27] (providing citizenship status in return for votes and loyalties), and a third way was through the provision of goods, services and benefits (such as paying for healthcare, schooling, and providing jobs).[28]

Civic activism under Syrian tutelage was limited in scope and oppression was used in line with the Syrian policy of clamping down on any opposition. Intimidation of activists and restrictions on freedom of assembly made any work on issues of political reform and citizenship very difficult.[29] Activists were constantly followed and closely monitored by Army Intelligence (*mukhabarat*) who would often show up at events, including student clubs on most university campuses.[30] Although the unaddressed humanitarian and developmental needs, a legacy from the Civil War, prompted a rise in the number of Lebanese NGOs, their efforts were mainly centred on welfare services.[31] Immediately after the Ta'if agreement, a pro-Syrian Ministry of Labour began licensing new labour federations that were loyal to sectarian elites[32] and the Ministry of Interior increasingly made NGO registration more difficult unless it was affiliated to sectarian or political leadership.[33] During the Syrian era, the Ministry of Interior also interfered in the management of NGOs by issuing unreasonable administrative requests and threats of dissolution unless the NGOs complied.[34]

Despite these challenges, the Lebanese Association for Democratic Elections (LADE), a non-profit non-governmental organisation, was founded in Lebanon

in 1996 with the sole aim of monitoring elections and advancing a national con- versation about electoral reform. It was at first funded by volunteers and found- ing members but later began receiving financial and technical assistance from the European Union, USAID, and other international specialised organisations. Between 1996 and 2000, the association played two main political roles. The first was raising awareness of the importance of actually holding national and local elections on time. For instance, in 1997, the campaign "*Baladi, Baldati, Baladiyati*" (my country, my town, my municipality) ran a nationwide aware- ness campaign to advocate the holding of municipal elections on time. The cam- paign started as a "rally" for municipal elections and mobilised citizens and intellectuals to sign a petition calling for the government to respect their con- stitutional right for local elections.[35] In 1996 and 2000, LADE's role in high- lighting the need for reform and in reporting on the process of the elections provided activists and several intellectuals with an outlet to oppose Syrian influ- ence and attack the sectarian system. The association issued periodic reports on the need for reform and the frequent violations that took place during the elec- tions before 2005.[36]

LADE filled a vacuum that was emerging as a result of the de-politicisation of political life under Syrian tutelage. It also played a part in the post-war demo- bilisation and stabilisation processes attracting youth, intellectuals and even party members to its mission.[37] The association benefited from the opportunity of an enabling legal environment, although the political context was repressive. At a time when opposition political parties were either repressed or purely sec- tarian, or both, LADE provided refuge for hundreds of activists and dozens of intellectuals who could come together and advocate for a more free and fair electoral process. Thus, while the country was under Syrian influence, LADE served as a means to mobilise activists and reformers. Reporting on electoral violations, LADE typically issued one Election Day report via the media as a press statement and a few weeks later published a report with detailed violations. Activists claimed intimidation and violent attacks on observers in several polling stations as LADE was not allowed by law to monitor or partake in the electoral process.[38] Instead, only official candidates and party representatives would be let inside the polls. But through sampling and choosing a few locations where LADE observers were allowed in, the association continued to train and deploy observers and report on the progress of the elections.[39]

By end of 2004, opposition to the Syrian regime was gaining momentum. A number of civic groups, political parties, and student unions were already engaged in internal talks to oust the Syrians and they formed a multi-sectarian opposition.[40] This was paralleled by a growing discontent within an embryonic alliance between Druze and Maronite leaders, with Prime Minister Hariri's tacit support.[41] Critics of Syria suddenly became more outspoken and journalists wrote overt articles about Lebanon's democracy and the need for Lebanese sovereignty.[42] Elections were scheduled to take place in the spring of 2005. Considerable momentum against Syrian tutelage gathered after Prime Minister Hariri, alongside 21 other civilians, was killed in a massive car bomb with

several politicians accusing Syria of the assassination.[43] Prior to this incident it was not possible for the public to call outright for Syria's withdrawal, but Har- iri's assassination coincided with a rapprochement between political parties and a mass mobilisation of citizens from all sects.

On 14 March 2005 close to one million people (of Lebanon's estimated popu- lation of four million) took the streets calling for freedom and sovereignty, for a timetable for the withdrawal of Syrian troops and the appointment of a neutral government to prepare parliamentary elections.[44] The elections that took place over four consecutive Sundays in May and June 2005 were the first in 30 years that were free from Syrian tutelage. This juncture allowed LADE to monitor the elections more openly and expand its work on electoral reform. The withdrawal of Syrians indicated the end of the era of violent repression by the Lebanese gov- ernment on political activism and NGO work. The elections marked the start of a period of critical junctures in Lebanon against which the subsequent electoral process will be evaluated.

In late 2004 and the spring of 2005, LADE and other NGOs working on polit- ical reform took centre stage. This was the beginning of a critical change in Leb- anese activism. Despite not being given legal recognition, LADE had continued to operate in three main areas: electoral education and capacity building, elect- oral monitoring, and advocating for electoral reform.[45] In 2005, LADE was offi- cially recognised by the Ministry of Interior for the first time and by 2009 the electoral law would grant civil society organisations the right to monitor the elections (article 20 of law 25/2008). Between 2004 and 2005, the rise in activ- ism saw not only newly registered groups – there were 9,000 NGOs in Lebanon by 2009 – but also a change in the character of NGO involvement and type of engagement in the political process.[46] While the "official" line of demands of the 14 March uprising were calls for investigation into Hariri's assassination, imple- mentation of UN Security resolution 1559, youth-led activism and demands were more about participation, accountability, and anti-corruption.[47] These organisations regarded themselves as an alternative to sectarian parties, champi- oning secular ideas and liberal democratic demands as their main priorities.[48] Thus, whilst the post-Syrian withdrawal period again divided political parties between opposition and pro-government actors and brought the same sectarian leaders back in power, political life outside sectarian confines was filled by a number of new NGOs with similar demands.[49] The weeks leading up to the "Cedar Revolution" saw a number of organisations, such as Amam '05, Nahwa el Muwatiniya, and Leb-youth, come together to work on policies and reforms by campaigning on issues such as citizenship, representation, youth rights, access to information and political accountability.[50]

Quickly after the "Cedar Revolution" NGOs began organising internally and making their efforts more institutionalised and programmatic. Campaigns such as the Lebanese Parliamentary Monitor[51] and the Civil Campaign for Electoral Reform (CCER)[52] showed that civil society organisations were able to self- organise and provide a "third" voice in the country's polarised political order.[53] This trend was coupled with a rise in international funding and donor assistance

for so-called democracy and governance agendas in Lebanon.[54] NGOs gained great leverage and took centre stage in politics, at least partially, by appearing in major conferences, news outlets, and political rallies.[55] As one leading activist recalled,

> at the time, we thought our success was in the number of newly funded initiatives, the number of media appearances, and the number of times politicians would shake our hands, but little did we know that this was only lip-service and that out politicians had no intention of reforming the system we revolted against in 2005.[56]

In many ways, NGOs, during and immediately after the mass protests, created a new way for citizens, and especially youth, to participate in the political process. Establishing NGOs was a mechanism of "revolutionary" demobilisation following the 14 March uprisings. A number of youth, student leaders, and activists who had taken part in the various movements to oust Syria retreated back to their offices and began to get organised in order to achieve their longer-term demands. "We understood that we could not expect change to happen overnight. Even though the Syrians had left, our corrupt politicians would need a longer time and more effort to be changed".[57] By turning protest activism into more organised activities, these civil society actors partially achieved their objectives, although as the next stage would show, the reform process remained constrained. In line with literature on post-revolution political spheres, the aftermath of the Cedar uprising saw a rise in the number of organisations that protestors joined. Although the NGO's role in politics remained limited, they did manage to be an alternative to sectarian parties for members who aspired for a secular and democratic state.[58]

4.3 Elections post-Syria: *partially* competitive process and *partially* representative results

The main political protagonists after 2005 were the "March 14" and "March 8" alliances. The "March 8" movement took its name from the pro-Syrian demonstration of 2005 that took place on that date. It included Hezbollah, the Shi'ite Amal Party (lead by the Speaker of Parliament Nabih Berri); General Michel Aoun's Change and Reform bloc; the Armenian Tashnag Party; and a host of pro-Syrian/Iranian/Palestinian parties, including the Syrian Social Nationalist Party, Baathists, and more.[59] The "March 14" movement was named after the anti-Syrian Cedar Revolution of 14 March 2005 following the assassination of Hariri. The alliance included former Prime Minister Saad Hariri (son of Rafik Hariri and head of the Sunni Future Movement), Samir Geagea's Christian Lebanese Forces; the Phalangist Party (headed by former Maronite President Amin Gemayel); the Armenian Ramgavar Party; as well as a number of Orthodox, Protestant, and other Christian minority groups.[60] The two main schisms between the two alliances was (and is) about the support of armed resistance against Israel (supported by March 8

and opposed by March 14) and the United Nations Special Tribunal for Lebanon[61] (supported by March 14 and opposed by March 8).[62] These two themes divided voters and would be the main campaign issues in the 2009 elections.

This section illustrates how elections in the post-Syrian era after 2005 failed to moderate sectarian conflict and encourage political competition. Although citizens can vote for candidates from various sects within the same districts, Salloukh explains that inter-communal and sectarian alliances were used instrumentally to "guarantee electoral victory in the context of electoral laws conducive to temporary sectarian coalitions".[63] These results are contrary to the expectations of power-sharing agreements that the literature suggests are more conducive to permanent inter-ethnic alliances.[64] Lebanese elections continued to rely on clientelism and sectarian loyalties similar to the electoral dynamics of the pre-war and Syrian tutelage eras. The theoretical framework here suggests that weak state institutions, power-sharing agreements, and the marginalisation of NGOs from reform processes (as will be shown), pose constraints on the likelihood of reform. These constraints emanating from institutionalised patterns of electoral administration pose a challenge for any reform that favours greater competition and greater representation of citizens. As a result, elections are one major pillar fostering sectarian path dependency in Lebanon. To illustrate this argument further, I assess the electoral framework below according to two dimensions.

I categorise the dimensions of the electoral framework into two types: the *political* and the *administrative*.[65] The "political" dimension of the elections has a bearing on the level and type of representation that elections can bring about. Political dimensions also regulate the way citizens engage in the electoral process. The "administrative" dimension refers to those aspects that have a bearing on how competition is managed and organised during elections. I refer to the two categories of analysis as being able, at a minimum, to enable a competitive process and a representative result.[66] The findings are based primarily on participant observation of the monitoring operations in 2005 and 2009 as well as reports of documented violations by LADE.[67] Overall, they are in tune with the literature considering how the sectarian process inhibits open competition and accurate representation in the post-Syrian elections.

Political dimensions

This section reveals how the choice of specific electoral tools enables a political manipulation of the electoral process and its results. It reviews the dimensions of districts, sectarianism, majoritarian systems, and the political economy of the 2005 and 2009 elections.

Electoral districts

The districting of voters in Lebanon was undertaken to guarantee that most districts have a majority of one sect, which is loyal to the running list and/or local za'im. Under the Syrians these candidates had to be pro-Syrian, but after 2005 they

had to be allies of high level national sectarian leaders. Because of the ways that sectarian communities are conglomerated and because of the sectarian nature of political parties, grouping votes in a homogeneous manner can almost always ensure the victory of the sectarian leaders.[68] This is even more problematic because Lebanese vote in the districts that correspond to their ancestral origins and not in their place of residence, making voter mobility difficult and further based on sectarian identity.[69] Historically, the tampering of electoral seats and districts was the means by which the feudal lords (*zu'ama*) could settle issues without touching upon the representation of the various sects within the parliament.[70] During the 2005 and 2009 elections, as in previous elections, most districts had an overwhelming majority of voters from one sect, thereby weakening political competition. In 2009, the only districts in which the outcome of the election was uncertain was in Christian-dominated areas, which comprised no more than eight out of 30 districts. The weak competition in most districts can be observed in two ways. First, electoral campaigning in most districts is limited to a single list that is either uncontested or facing weak opposition. By observing the percentage of the vote obtained by the leading candidate who was elected and the percentage of voters who participated, this limited competition is made clear. For example, House Speaker Nabih Berri from the Amal movement won 90% of the votes out of 34,315 mainly Shi'a voters in Zahrani.[71] Mennieh-Donnieh had 97,352 mainly Sunni voters out of which an average of 70% voted for the pro-Hariri list. The Hezbollah-backed list in Baalbeck-Hermel, which had 126,038 registered voters, received 86% of the votes. The Druze Shouf had 181,949 predominantly Druze voters, 68% of whom voted for the pro-Jumblat list.[72] Voters in the Christian areas of Keserwan and Jbeil voted almost equally at around 51% for the winning list. Where there were no competing lists in the Christian areas, for example in Bsharreh, the Lebanese Forces backed list won 76% of the votes.[73]

There is a direct correlation between sect and block voting for a leading candidate. In some of these districts, winners had fewer than 20,000 votes – this means that the same number of votes that allowed a candidate to win in some districts were not enough for another candidate in other districts.[74] For example, in Bint Jbeil, Ali Mhanna won by 1% of the vote, while in Beirut's third district Najah Wakim lost even though he obtained 21% of the vote.[75] In addition, the number of seats voters get to vote for varies inconsistently and disproportionately across districts.[76] For example, in Beirut's first district, 91,456 voters elect five Members of Parliament, while in Minieh-Donineh, 102,118 voters elect three Members of Parliament.[77] The idea is to put together voters that support full lists headed by the major sectarian za'im of that community within each district. Politicians adjust the number of seats in parliament to get results that favour them with no permanent number of MPs per district.[78]

Sectarian representation

Although article 24 of the Lebanese constitution that was reinstated after Ta'if stipulates the abolishment of sectarian seats in parliament, this reform never took

place. The allocation of seats per sect has therefore encouraged political actors to run on the basis of the sectarian patron–client relationship and provides no incentive for candidates to appeal to the nation as a whole, or to voters from outside their communities. The sectarian allocation of seats means that by default the sectarian leaders who have built their clientelist networks and reputation in localities have the highest chance of collecting votes.[79] It also provides little encouragement for intra-group cooperation among the different sects and little incentive for candidates to appeal to voters from sects outside their own religious groups.[80] Instead, candidates are chosen to join lists of leading zu'ama, which in turn exacerbates the challenge of having confessionally homogeneous districts because minorities of a specific sect are then counted as voters for the leader of the majority sect. This is why, even after the Syrian withdrawal, voters within the Christian community, for example, continued to feel their representation was threatened.[81] This is referred to in Arabic as the "*mahdaleh*" system, which means "sweeper" indicating that lists sweep winning results with little or no competition and any minorities (ethnic, political or other) have to follow this leadership or else they would not stand a chance at winning. Lebanese leaders use "competitive clientelism" to compete amongst one another in their pursuit to gain access to state resources.[82] Thus, voters elect the only option available to them in return for protection and the basic services the zu'ama can provide, as there are no alternative lists in most districts.

Majoritarian system

The majoritarian system means that candidates have only to win 50% +1 of the votes in their districts. In principle this is not generally problematic for representation, but coupled with the list system and power-sharing, majoritarianism is a hindrance to accurate representation in Lebanon. Consociational systems can appease tensions and encourage competition but, in this respect, only Proportional Representation could lead to new forms of leadership and to more agenda-based competition.[83] However, the majoritarian system in Lebanon also means that candidates will win with a disproportionate number of votes since the majority needed in one district may be different to that in other districts, because the number of voters can differ dramatically from one district to the other. The majoritarian system combined with the list system allows for election lists in each of the districts to become very difficult to defeat, thereby making the competition play out in favour of sectarian leaders. As a result, candidates who are local-level zu'ama have to join lists-in-the-making or pre-existing lists based on the approval of the sectarian leaders (high level zu'ama). The majoritarian system coupled with small districts has nurtured a sectarian basis for voting and for representation. This, in turn, is a hindrance to structural political change and does not encourage national intra-communal electoral lists that appeal to voters from different sects and regions.[84]

It is important to note here the character of Lebanese political parties. Unlike other Arab countries, Lebanon has a long history of political party politics, but

one that is overshadowed by the sectarian nature of participation and representation in these parties. As such, we see that the majority of party members are from a single sectarian affiliation.[85] The parties always display a strong clannish and personality attachment to their leaders and lack any kind of programme, agenda, or stable membership from outside the followers of the za'im and the sect.[86] This also continued after 2005. The political parties' role as socialisation agents, platforms for political competition, and political organisations is almost non-existent.[87] Political parties function within an overall non-competitive electoral framework and remain highly centralised as political structures.[88] Parties have weak agendas and electoral platforms and, as such, are able to make alliances with opponent parties in some districts but not in others. Lastly, zu'ama and not political parties, nominate candidates in Lebanese elections.[89]

Political economy of elections

The clientelistic nature of political life in the country facilitates high levels of corruption during the electoral process. Lebanon's weak and politicised judiciary makes it impossible to track and control spending during elections.[90] The patronage networks continued until after 2005 and were maintained by heavy expenditure during the electoral campaigns after 2005.[91] Corstange asserts, using survey data, that more than half of the voters admitted to selling their votes in the 2009 election.[92] A Member of Parliament, stated that, "in 2009, a number of payments were made by candidates so that sectarian leaders would accept placing them on their lists, a large percentage of whom did not belong to political parties".[93] These two facets of vote buying and seat buying distort electoral campaigns and ultimately electoral outcomes. In addition, it means smaller, less established groups are unable to compete with longstanding zu'ama. The way the political economy of Lebanese elections works is to the advantage of wealthy individuals supported by sectarian leadership.

Administrative dimensions

This section details how four administrative dimensions of the electoral process, namely campaign finance, media regulation, supervisory commission, and the provision of ballot papers, limit competition and representation. The administrative dimensions, like the political ones, underscore how the electoral framework in Lebanon continues to be to the advantage of its sectarian elites.

Campaign finance

Wealthy leaders continue to be able to buy electoral votes, utilise media campaigns for their benefit, and incentivise voters through social or charitable activities. Usually, in vote buying, half of the amount of the money is given beforehand and the second half is given after Election Day to ensure that clients vote for their patron.[94] The electoral system and law never mentioned limiting or

managing the financing of electoral campaigns until 2009. Article 59 of the 2009 law, which was designed to regulate campaign finance, left many areas wide open for exploitation when it stated that: "help and services that were provided regularly for no less than three years by candidates or organisations owned by candidates are not prohibited". This meant that charities and other associations so commonly sponsored by Lebanese sectarian leaders would continue to operate during an election, thereby securing the loyalty of voters.[95] In practice, older and more established parties would therefore have an advantage in being able to spend high sums during their campaigns, whereas new and smaller parties would be banned from such activities.[96] All election reports have noted cases in which candidates paid for tuition fees, cars, health services and accommodation.[97] Civil society observers presented at least 20 documented cases of vote buying to the prosecutor general during the 2009 elections, though no action was taken.[98] The 2009 vote has been flaunted as the most expensive election on a per-capita basis in Lebanon's history.[99] Campaign finance is so unregulated that most candidates openly set up offices where they offer voters cash during the weeks leading up to Election Day.[100]

Media

Media outlets are an important socialisation agent, influencing public opinion and voter behaviour during elections. Lebanon's law on audio-visual media prevents ownership from being in the hands of one person, especially owners belonging to a single sectarian group, and places a 10% ceiling on ownership by a single person. Despite this, a study of 55 media institutions revealed that political financing of media outlets is *the* source of funding that keeps Lebanon's media stations alive.[101] Lebanese politicians practically own the major media outlets of the country. During the Civil War, unlicensed broadcasting was sustained by taxes levied by militias in districts that they controlled.[102] After the war, media "frequencies" were distributed among private owners while others were shut down.[103] Private ownership continued after 2005 and allowed for media outlets to become mouthpieces of sectarian zu'ama and to promote whoever was sponsoring them.[104] During an election this bias is evident in the distribution of ratings and media space allocated by the various media stations to the various candidates. Media monitoring reports, for example, point to the fact that Future Television promoted almost entirely the Future Movement candidate in the 2005 and 2009 elections. Similarly, Al Manar gave the most space to Hezbollah candidates in 2005 and 2009. Print media observation reports noted similar results.[105] This also means that less established candidates who do not have the same access to their own networks are unable to appear in the media and advertise their campaigns to the same extent during an election.

Supervisory Commission for Electoral Campaigns (SCEC)

The Ministry of Interior and Municipalities administers Lebanese elections. For the first time, the 2008 electoral law called for the establishment of a Supervisory

Commission for Electoral Campaigns to oversee election campaigns.[106] The SCEC's prerogatives were to supervise the compliance of candidates and mass media to the law by monitoring and reporting on spending and media advertisements in the run up to the election. SCEC would draw up a report on its activities and share it with the Ministry of Interior and Municipalities before it is published in an official gazette. Although the SCEC's establishment was an improvement to past years, it would continue to be controlled by the Ministry. It had no prerogatives to sanction candidates or media stations for violations to the law. Without the ability to penalise violations, the commission was a token regulatory institution that issued reports during the election to the Interior Minister. As a result, international observers and ordinary voters had to rely on the pre-election reports of LADE for information on violations and electoral campaigns.[107] The commission was of no help to the reform process and, once the elections were over, its ten members packed up and emptied their offices.[108] Internal squabbles, as well as lack of internal capacity and experience, also meant that SCEC members were not taken seriously by politicians.[109] As such, by and large, campaigns and media performance during elections continued to be unregulated.

Ballot papers

Lebanon has never had pre-printed ballot papers. Instead, citizens are kept waiting until just before an election to know the names of candidates and the lists in their respective districts.[110] Voters then obtain lists either from party campaigns or develop lists themselves. Political leaders, party representatives and candidates usually distribute ballot papers with their preferred lists of candidates to citizens around the time of the elections and/or on Election Day. The 2009 electoral law (no. 25/2008) prohibited campaigning on the day of elections and within the premises of polling stations, but this did not stop campaigners from driving around in cars distributing ballots and paying visits to voters throughout the period of the electoral campaigns.[111] Ballot papers are designed using different fonts, colours, and sequence of names, all of which makes them traceable.[112] Since voters vote in polling rooms that are segregated by gender and confession, and since the counting takes place in front of candidate representatives, it is with great ease that the number of ballots (from every shape and size and colour) can be counted and traced to voters (and counting takes place in polling stations).[113] Political parties and candidate representatives are widely known to be able to know, with high accuracy, which families voted for them because of this.[114] A member of the campaign team of a parliamentary candidate recalled that, in 2009, "we noted several incidents where bribes were promised to be paid *after* voting to make sure that the voter indeed would case his/her vote for this candidate".[115]

Based on the preceding analysis, a summary of each of the dimensions of the electoral process for the two elections that took place in post-Syria Lebanon indicates the evolutions as shown in Table 4.1.

Table 4.1 Comparison of electoral reform and non-reform between 2005 and 2009

Political dimensions		
Comparison	2005	2009
Districting	26 districts with majority of same sect in each district	Unchanged
Sectarian seat allocation	Unchanged	Unchanged
Majoritarian system	Unchanged	Unchanged
Political economy of elections	Unchanged	Unchanged
Administrative dimensions		
Campaign finance	Unregulated	Partially regulated under Article 59, which allowed for spending on expenses that have existed for three years
Media regulation	Unregulated	Partially regulated in Article 68 which prohibits slander, defamation and hate speech
Ballot papers	Unavailable	(Still) unavailable

The analysis shows clearly that the practices of tampering with districts, media, and votes have been carried on from the pre-2005 era under Syrian tutelage. For instance, although the electoral law is meant to regulate the elections, in reality the judiciary and the supervisory commission has little capacity to control how the political and administrative dimensions play out. The Ministry of Interior and Municipalities is unable to provide independent management of the electoral process and campaigns.[116] The prospects for reform continued to be dismal because of the absence of any incentive to which parties, leaders, and voters would respond. While it is generally argued that shocks to the political order, such as regime change, can often lead to a new electoral framework, this was not the case in Lebanon after 2005. Although the Syrian withdrawal coincided with the new government's formal adoption of partial reforms, the key dynamics of the electoral process remained very similar to those of the Syrian period and electoral institutions displayed elements of continuity that constrained the impact of the partial reforms that took place in 2005. As such, the major tools for manipulating the process and the results exhibited a path dependence grounded in sectarianism and on the role of zu'ama, which made Syria's withdrawal only partially critical to the political order.

4.4 Activism for electoral reform: the civil campaign for electoral reform (2006–2010)

In an attempt to bolster its presence and increase the pressure for more free and fair elections, after 2005 LADE established a nationwide campaign to demand

electoral reform. An important change from its pre-2005 role, LADE began to focus more on lobbying and rallying citizens and decision-makers in favour of electoral reform. This section appraises the experiences of the Civil Campaign for Electoral Reform (CCER) and explain why it failed to influence electoral reform after 2005.

Electoral reform had been on LADE's agenda since before 2005. Since its establishment by activists and intellectuals in March 1996 it was a non-governmental organisation with the objective of ensuring free and fair elections in Lebanon, primarily through reforming the electoral system and educating the public.[117] After 2005, LADE took the leading role in mobilising youth, lobbying parliamentarians, and bringing together various movements and NGOs in support of electoral reform. LADE and its affiliate the CCER have also been one of the largest umbrella initiatives in Lebanese civil society. According to activists, at least $10 million has been spent by foreign donors in election-related grants, not counting the sums allocated for "technical assistance" that the Lebanese government received for electoral reform.[118]

In 2005, LADE was given the first official approval to monitor and report on elections. The 2005 elections were monitored over four weekends by more than 500 observers. The 2005 observation results emphasised the significance of the first election after Syrian tutelage, lamented the assassinations that preceded the elections in Spring of 2005, and reported a rise in sectarian discourse, tensions, and vote buying. More importantly, the observation report shed light on the urgency of reform.[119] The demands for reform were accompanied by a serious governmental initiative to study the possibilities and priorities of electoral reform for the first time. On 8 August 2005, Prime Minister Fouad Siniora set up an independent commission headed by ex-Minister Fouad Butros to propose a new electoral law for Lebanon.[120] When, in 2005, the Prime Minister established the commission it was welcomed by LADE and other civil society activists. The formation of the National Commission for the Reform of the Electoral Law, which comprised experts in political science and law and civil society activists, was appointed to represent the major sects in the country.[121] The establishment of the Commission marked a departure from the historical practices of laws enacted at the last minute and signalled that the political class was, potentially, beginning to study the opportunity for electoral reform. But according to one commission member, "unfortunately, although it was meant to be a reformist committee, the conversations internally reflected the external sectarian discourse. It was as if we were camouflaging the old system in a new set of practices".[122] Photograph 4.1 shows the piloting of the observation methodology by hundreds of LADE volunteers who gathered to pledge ethical observation of the elections and commitment to upholding the electoral law.

The Commission proposed a draft electoral law in May 2006 that included the following reforms:

- A mixed electoral system with proportional representation introduced in parallel to the majority system with dual districting.

Photograph 4.1   Hundreds of LADE observers gather to simulate election observation methods and SMS instant reporting.

- An independent electoral commission to oversee the elections.
- Out-of-country voting.
- Regulation of campaign spending.
- Regulation of the media coverage of electoral campaigns.
- Lowering the voting age from 21 to 18 years.
- Voting from the voter's place of residence.
- Holding national elections on one day.
- Introducing a women's quota on candidates' lists.
- Acknowledging the special needs of voters with disabilities.

In 2007, to support these reforms, LADE launched the CCER with the purpose of increasing grassroots support for electoral reform, educating citizens and decision-makers on electoral reform, and pressuring political leaders to adopt electoral reform.[123] From 2007 onwards, CCER adopted the law proposed by the Botrous Commission while continuing to note that its members sought a more substantive reform but would accept the Botrous Commission's version as a first step. The recommendations by the Botrous Commission were aimed at combating vote buying, encouraging minority representation, and providing a better administration of the elections.

LADE became a reference for electoral reform and educational activities between 2005 and 2010, especially after the formation of CCER as a nationwide campaign with more 70 local organisations, including Nahwa el Muwatiniya, the Lebanese Physically Handicapped Union, Baldati, Kafa, and the Women's Democratic Gathering among others that joined efforts to call for electoral reform. CCER activists held weekly town-hall meetings at the local level, lectured in universities, spoke on the television, issued booklets and awareness material, and trained thousands of young voters on their rights and on the required reforms.[124] The campaign activities between 2006 and 2009 were based on a two-pronged strategy: to create pressure for electoral reform from citizens and to persuade decision-makers of the need for reform.[125] The campaign conducted 146 town-hall meetings to educate citizens on electoral reform, gathered 5,500 petitions signed by citizens supporting the reforms, held 150 meetings with Members of Parliament to demand reforms, staged tens of protests demanding proportional representation among other reforms, and issued publications and periodic press releases.

CCER succeeded in putting electoral reform on the public's agenda and on the agenda of Members of Parliament.[126] CCER activists closely followed and tried to influence the political debate and influence the discussion around electoral reform. They offered specialised training courses on the required reforms and their implications for candidates, voters and public administration. They were even asked by political parties to train party leaders on electoral reform.[127] This type of "professional" activism was new to Lebanon, especially considering the scale of the campaign, which reached rural areas and all the electoral districts. It marked a significant difference from the covert work of activists under Syrian tutelage. Photograph 4.2 exhibits the pledge signed by election observers a month before the 2009 elections.

Following the 2006 war with Israel, Lebanon entered a political deadlock (between 2007 and 2008) that ended in street clashes initiated by the March 8 movement. During the Doha negotiations between the two political factions, CCER activists accompanied the attendees and gave Members of Parliament a briefing of the key reforms.[128] While most MPs would pay lip service to the reforms, their voting records would go against these promises. Out of the Qatari-sponsored Doha Agreement in 2008 emerged a new electoral law that adopted (at least in words) parts of the demands that CCER had been advocating. After months of debate and work by both the Botrous Commission and CCER, the one-week Doha Agreement settled strategic issues in the electoral law and allowed Lebanese politicians to "pick and choose" from a list of reforms recommended by the Botrous Commission and CCER. The outcomes are compared in Table 4.2.

In retrospect, the CCER experience benefited from the invigoration of civil society after the Syrian withdrawal. The campaign succeeded in keeping electoral reform on the agenda of Members of Parliament and in forcing political party leaders to address demands for reform. The campaign did not, however, leverage sufficient grassroots and political support to pressure successfully for
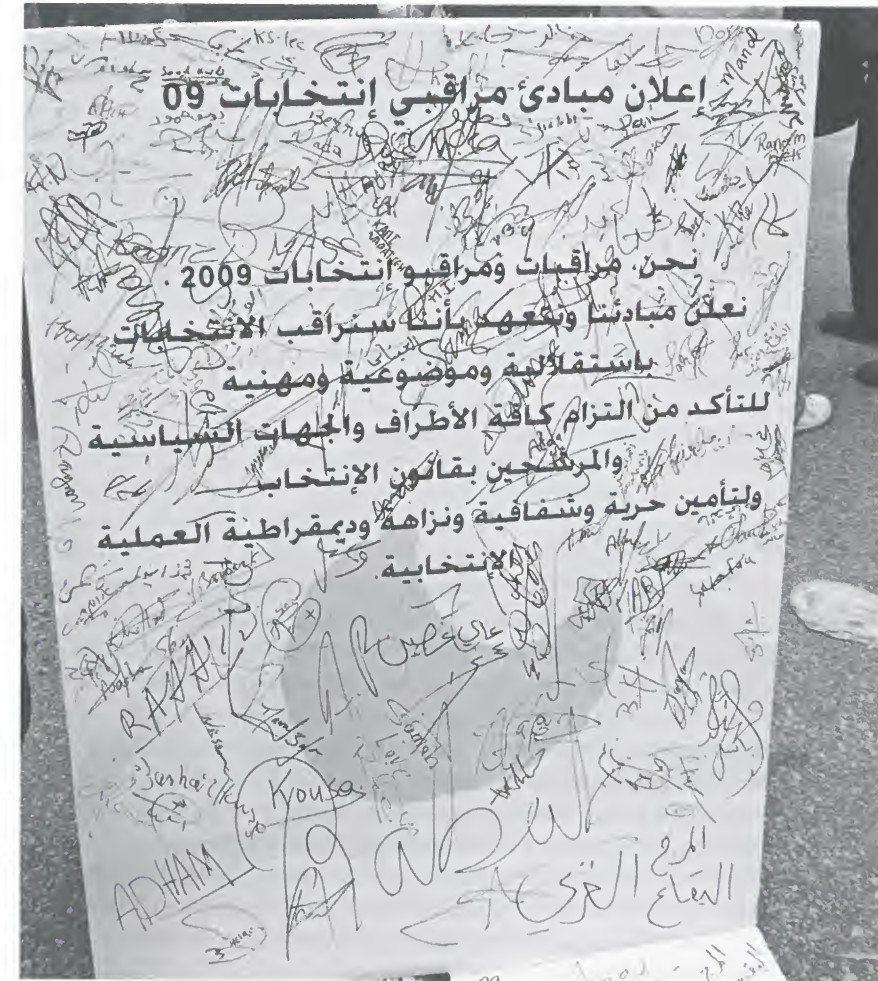
Photograph 4.2 Election observers sign pledge to monitor elections with transparency and accuracy.

the enactment of reforms. The CCER's role after 2005 helped in attracting hundreds of volunteers and activists as a form of remobilisation after the uprising against the Syrians. But mobilisation efforts proved to be difficult to maintain when it came to pressuring Parliament for reform. Although Parliament became officially aware of the issues and demands, the activists and the movement in general were not powerful enough to get the system to accept significant demands and make important concessions.

Table 4.2 Assessing CCER demands against the actual adopted electoral law in Doha (law 25/2008)

CCER demands	Electoral Law 25/2008 (Doha Law)
1 Proportional Representation	Not adopted
2 Independent Elections Commission and Supervisory Committee	Adopted partially (Supervisory Committee for Electoral Campaigns appointed by Minister of Interior and Municipalities)
3 Out-of-Country Voting	Adopted but not implemented
4 Pre-Printed Ballot Papers	Not adopted
5 Campaign Finance Regulation	Adopted partially (article 59 still allowed for spending to continue)
6 Women's Quota of 30% on Lists	Not adopted
7 Decrease Voting Age from 21 to 18	Not adopted
8 Media Regulation	Adopted partially
9 Access for Citizens with Special Needs	Adopted
10 Right to Vote for Military Personnel	Not adopted

At the strategic level

The activists used "old" strategies of observing and reporting on the elections. Although LADE varied the methodology and duration of observation, the basic premise of attempting to "safeguard" the electoral process still stood. While this might have been more strategic under Syrian tutelage, it was not relevant to the political process after 2005. The 2005 and 2009 elections did take place on time, the basic deadlines were respected, and there were no overt tactics used to oppress voters. Instead, the rules of electoral engineering were deeply embedded and could not be reformed via observation and raising awareness. Observation was still important as a means to raise the awareness of citizens but it had no direct political consequence as it was not geared towards reforming the electoral system. Instead, LADE set up CCER as almost a separate arm to lobby and advocate for reforms without linking findings of violations to their advocacy strategies. The 3,500 LADE-trained observers were not part of the CCER efforts and instead CCER brought in other NGOs to help its work and activities at the local level.[129] Another strategic shortcoming was that both LADE and CCER directed their efforts towards Members of Parliament. Because of the weak state structure, the Parliament is not the main decision-making body in the reform process. As it appeared in 2008, for the electoral law to come about, both the 8 March and 14 March factions sought outside support to "settle their differences". The Doha agreement essentially redistricted the constituencies to enable both factions to retain a voting majority in their districts.

At the organisational level

CCER remained highly centralised. Although more than 70 NGOs were in the coalition, decision-making and planning was restricted to representatives from

three NGOs.[130] Essentially, this disconnected the work of the campaign from the work of its partners in rural areas; the campaign was run by a few Beirut-based experts who had the time to meet face-to-face. The organisational challenge meant that NGOs outside of the capital often disagreed with the campaign strategies but could do little to influence them. For example, many activists claim that CCER gave in by opting for the reforms of the Botrous Commission and should have instead kept pushing for more substantive reforms.[131] Others say that CCER got "too close" to the political class, became too friendly with Members of Parliament and that it should have employed a more confrontational strategy.[132] CCER also was disconnected from the 2009 monitoring operation. While the observers in 2009 noted crucial information for reform, LADE did not release the final report until a year later, diminishing the results that could have been useful for the advocacy and lobbying efforts of CCER.[133]

At the discursive level

Campaign organisers indicate that demands for democratic reforms to the electoral system were not very popular at the local level. The sectarian system does not make advocacy a useful tool for citizens. Campaign organisers claimed that people were not used to "pressuring" politicians for their demands. Instead, the list-system led to local zu'ama-pressured citizens to vote and accept results. In town-hall meetings, participants would express their conviction in the need for reforms but were not persuaded that these reforms could secure their interests.[134] Citizens in the municipalities would say that it was more in their interest to support the za'im in return for favours and benefits than to side too closely with the demands of CCER.[135] Although the campaign succeeded in having a media platform, it was disconnected from everyday social and political concerns of citizens and voters. This discursive mismatch was an obstacle, especially as voters are made to respect candidates and not question the performance of Members of Parliament. Inherently, the job of the Members of Parliament is not legislative but is geared towards giving favours to constituencies; this made the demands for substantive electoral reform somewhat irrelevant both to citizens and to their decision makers.

4.5 Insights from the 2009 elections: old practices in a new law

Politically, the Doha agreement ended a deadlock of 18 months and facilitated the election of a new President of the Republic (Michel Suleiman), the formation of a new Cabinet and the scheduling of new Parliamentary elections. In December 2008, a new electoral law was adopted by Parliament and the elections were scheduled for 7 June 2009. These elections took place under the partial reform system administered by the Minister of Interior and Municipalities (Ziad Baroud), who was a leading figure from civil society, a human rights lawyer, and LADE Board Member for over four years. His presence in government

facilitated the work of the observers and created open channels of communication that had historically been closed to civil society activists.

The observation mission of 2009 brought together the largest number of organised volunteers since the 2005 uprisings (more than 3,000 trained and deployed observers followed a strict methodology that was intended to provide data for future reform efforts). LADE expanded its operations by engaging in the following key actions: (1) electoral education and training of observers (holding over 400 workshops and training courses for 5,000 citizens); (2) establishing 27 LADE district offices under the management of LADE's coordinators in all electoral districts, opening up the process of submitting violations from citizens via district offices (10% of incidents reported from candidate campaigns), SMS reporting and an online portal (22% of violations were reported via the portal). LADE also established a detailed methodology with 267 legal and practical indicators for what is considered a violation to free and fair elections (68% of violations noted from trained observers). It launched a public monitoring campaign and achieved more than 100 television and radio appearances in national and foreign media. Using SMS real-time reporting of violations through the work of both fixed and mobile observers, LADE noted 1,011 critical violations. A 24-hour hotline was dedicated to receiving complaints and infringement reports (80% of callers were citizens inquiring on the electoral system). LADE issued three pre-election reports that recorded 313 documented violations and two Election Day reports.

The 2009 elections exhibited the following elements of continuity that were documented in the LADE reports, namely in increased sectarian tensions, use of smaller districts, and vote-buying. The most significant issues were the following:

(i) *Vote-buying.* Candidates resorted to a variety of methods in "paying" for votes. These ranged from direct payments, the payment of the travel costs of diaspora residents, payment of school tuition, medical services, and employment opportunities.

(ii) *Hate-speech and sectarian discourse.* Candidates relied on instigation of violence, defamation and slander in their speeches (in direct violation of article 68 of the electoral law).

(iii) *Use of public spaces for partisan gains.* Candidates used the premises of religious institutions, and of municipalities for their personal and party campaigns (in direct violation of Chapter 6 of the electoral law). This practice turns public resources into private mechanisms of support for some candidates and places high barriers to entering the political arena for independent or new candidates.

(iv) *Weakness of judicial control.* While the Botrous Commission law called for the establishment of an independent electoral commission, the Doha agreement resulted in a law that only established a Supervisory Commission for Electoral Campaigns (SCEC) which had very limited influence.[136] While LADE reported over 225 pre-election violations and 250 critical violations by the Ministry on Election Day, the SCEC received a mere 92 complaints from 705 candidates.[137] LADE also reported on 20 documented cases of

vote buying and informed the prosecutor general but no steps of investigation were taken.[138]

4.6 Conclusions and implications of non-reform

The electoral framework in Lebanon is one of the main institutional pillars of the sectarian power-sharing system. Studying the way the elections are managed helps further our understanding of the dynamics of power-sharing in Lebanon, as well as the ineffectiveness of civic organisations in reform processes. The intricacies of Lebanon's system exhibit high path dependency despite the change in domestic policy after 2005. Whilst the Syrian tutelage of 30 years was not helpful to the reform process, Syria's withdrawal did allow for activists to work more extensively on reform, but ultimately failed to create enough support for electoral reform.

The 2005 events were a partially critical juncture in three ways. First, the Lebanese parliament began to formally recognise the need for electoral reform. This recognition is exemplified by the government's creation of a specialised commission to study these reforms. However, formal recognition did not translate into practical political changes, as most reforms were not enacted. Second, NGOs could more openly work on political reform and relay their demands to politicians. CCER is one example that illustrates well the role of NGOs in advocacy and awareness raising. The activists however, continued to use old tactics of reporting on electoral and reform processes and although the monitoring was more professional, the advocacy efforts of CCER remained traditional. Third, the 2009 elections were, for the first time, supervised by a government institution, the SCEC, but continued to support sectarian interests because the SCEC was weak. Much like other public institutions, the SCEC required the support of political leadership and lacked the authority to sanction violators. As such, vote buying, sectarian discourse, and misuse of public office prevailed in the 2009 electoral campaign process.

The 2005 withdrawal of Syrian troops reinvigorated the role of civil society, as can be seen in the case of LADE. But the main role that such NGOs could play was educational; they could raise citizen awareness and could inform parliament of what was needed, but it could not garner enough support to create more critical reforms. The ability of political leaders to not only lead the "revolution" but to take advantage of its gains derives from the agreement to retain the same formula of power-sharing and sectarian representation. According to one leading activist, politicians in 2005 changed their rhetoric demanding Syria's withdrawal but the main tools they used to govern remained in place.[139] Even if these NGOs were "new" and aimed to be an alternative political society, they had to interact with and solicit the approval of the sectarian elites to advance their agenda and to continue their activities. The sectarian system after 2005 entrapped nascent NGOs and challenged their ability to reform the system.

The electoral framework supports the sectarian power-sharing institutions, which causes votes to be intimately tied to sectarian loyalties and exchanged for benefits and services that the state is incapable of providing. This electoral framework and its institutions did not allow therefore for 2005 to be a fully critical juncture. CCER

benefited from a window of opportunity for reform that was created after the Syrian departure, but the 2005 Parliament proved non-reformist and the 2009 elections were just as manipulated as previous ones. CCER activists presumed that advocacy could yield results if they amplified their efforts and widened their networks. Essentially, advocacy could not work because Members of Parliament do not seek to please voters and campaigners; rather, voters and campaigners seek to please Members of Parliament. As Omar Abdel Samad, LADE Board Member, notes, "people want to please politicians and thus cannot actually put pressure on them".[140] It is this type of relationship that stands in the way of citizenship identity and culture in Lebanon, and instead supports a sectarian, fragmented identity and an only partially competitive electoral process. Rather than changing this, the juncture of 2005 has made the sectarian system even better at controlling and manufacturing elections in Lebanon.

Notes

1 Capoccia and Kelemen, "The Study of Critical Junctures", 348.
2 On the concept of agency and institutional dynamism see Colin Hay and Daniel Wincott, "Structure, Agency and Historical Institutionalism", *Political Studies* 46, no. 5 (1998): 951–957.
3 See Harik, "Voting Participation and Political Integration in Lebanon 1943–1974", 30.
4 See this in some of the earliest literature on Lebanon by Jacob Landau, "Elections in Lebanon", *The Western Political Quarterly* 14, no. 1 (1961): 120–147.
5 Gary Gambill and Eli Abou Aoun. "Special Report: How Syria Orchestrates Lebanon's Elections", *Middle East Intelligence Bulletin*, (2000). www.meforum.org/meib/articles/0008_ll.htm (2000) (accessed 10 March 2013).
6 In 2004, under Syrian influence the Lebanese parliament unconstitutionally extended the mandate of pro-Syrian president Emile Lahoud, which served to fortify the parliamentary and civic opposition to Syria's role. See Harris, "Crisis in the Levant: Lebanon at Risk?" 37.
7 Gambill and Abou Aoun, "How Syria Orchestrates Lebanon's Elections".
8 This large districting is considered a requirement alongside Proportional Representation for divided societies as it encourages intra-communal collaboration and participation of citizens outside of ethnic confines, see for instance, Arend Lijphart, "Constitutional Choices for New Democracies", *Journal of Democracy* 2, no. 1 (1991): 72–84.
9 There are six Muhafazat in Lebanon while there are 30 Qadas.
10 Farid Khazen, *Prospects for Lebanon – Lebanon's First Post-war Parliamentary Elections: An Imposed Choice* (London: Oxford Centre for Lebanese Studies, 1998), 18–19.
11 Marcia Pripstein Posusney, "Multiparty Elections in the Arab World: Institutional Engineering and Oppositional Strategies", *Studies in Comparative International Development* 36, no. 2 (2002): 45.
12 Khazen, *Prospects for Lebanon*, 71–73.
13 Posusney, "Multiparty Elections in the Arab World", 45.
14 Ibid.
15 Lebanese Association for Democratic Elections, "Assessment of the Electoral Framework: The Electoral Law of 2000 and the Draft Law by the Botrous Commission" (Washington DC: Democracy Reporting International, 2008).
16 Gambill and Abou Aoun, "How Syria Orchestrates Lebanon's Elections".
17 Gambill and Abou Aoun, "Special Report: How Syria Orchestrates Lebanon's Elections".
18 See reports on the 1996 and 2000 elections which show media bias towards certain lists LADE www.lade.org.lb/ElectionsObservations/CurrentElections/%D8%AA%D9

%82%D8%A7%D8%B1%D9%8A%D8%B1%D8%A7%D9%84%D9%85%D8%B1%D8%A7%D9%82%D8%A8%D8%A9.aspx (accessed 9 June 2014).
19 Although Lebanon's print and broadcasting laws for media state that political sources of finance cannot exceed 10%, the judiciary have taken steps to free the media from political ownership. Arab Rule of Law Initiative. State of Media in Lebanon, www.arabruleoflaw.org/Files/PDF/Media/Arabic/P2/MediaLebanonReportP2S2_AR.pdf (accessed 9 June 2014).
20 El Khazen, *Prospects for Lebanon*, 4.
21 Farid El Khazen, *The Postwar Lebanese Elections of 1992, 1996, and 2000: Democracy without Choice* (Beirut: Annahar Press – Arabic, 2000) and A. N. Hamzeh, "Clientelism, Lebanon: Roots and Trends". *Middle Eastern Studies* 37, no. 3 (2001): 167–178.
22 Gambill and Abou Aoun, "Special Report: How Syria Orchestrates Lebanon's Elections".
23 Knudsen, *Precarious Peace building: Post-War Lebanon 1990–2005*, 12.
24 Lebanese Association for Democratic Elections "Assessment of the Electoral Framework: The Electoral Law of 2000 and the Draft Law by the Botrous Commission", (Washington DC, Democracy Reporting International, 2008).
25 Patrick Clawson and Robert Rabil, "The Role of International Monitors and Observers in the Lebanese elections", *Policy Watch #977*, www.washingtoninstitute.org/policy-analysis/view/the-role-of-international-monitors-and-observers-in-the-lebanese-elections (accessed 3 June 2014).
26 Lebanese Association for Democratic Elections: 1996 Parliamentary Elections: electoral violations and results, Beirut 1996.
27 Hourani and Sensenig-Dabbous, "Naturalized Citizens".
28 See for instance El Khazen, *The Postwar Lebanese Elections*.
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30 Gilbert Doumit, founder of Nahwa el Muwatiniya in 2004, interview with author, Beirut, June 2012.
31 Chaaban and Seyfert, *Faith-based NGOs in a Multi-Confessional Society: Evidence from Lebanon*, 2–3.
32 Janine Clark and Bassel Salloukh, "Elite Strategies, Civil Society and Sectarian Identities in Post-War Lebanon", *International Journal of Middle East Studies* 45, no. 4 (2013): 731–749, at p. 737.
33 Randa Antoun, founder of Lebanese Transparency Association that was refused a registration number between 1997 and 2005, interview with author, Beirut November 2011.
34 Clark and Salloukh, "Elite Strategies, Civil Society and Sectarian Identities in Post-War Lebanon", 741.
35 Karam Karam, "Civil Associations, Social Movements and Political Participation in Lebanon in the 1990s", in *NGOs and Governance in the Arab World*. Edited by Sara Ben Nafissa (Cairo: American University in Cairo Press), 321–323
36 Although before 2005, LADE could only deploy a few observers as it faced restriction on its activities, its reports are widely cited and considered to be an accurate source of data. See for example, Daniel Corstange, "Vote Trafficking in Lebanon", *International Journal for Middle East Studies* 44, no. 3 (2012): 483–505, at p. 488.
37 Karam, "Civil Associations, Social Movements and Political Participation in Lebanon in the 1990s", 318–319.
38 Yara Nassar, LADE founder and executive director, interview with author, Beirut, October 2011.
39 Paul Salem, LADE Chairman of the Board in 1996 and spokesperson, interview with author, Beirut, November 2010.
40 Knio, "Lebanon: Cedar Revolution or Neo-Sectarian Partition?" 225.
41 General Michel Aoun is said to have played a key role in international lobbying for

United Nations Security Council Resolution 1559, adopted on 2 September 2004, calling for free and fair presidential elections in Lebanon and demanding foreign forces to withdraw from the country. See Harris, "Crisis in the Levant: Lebanon at Risk?" 37.

42 The most prominent of these were Samir Kassir and Gebran Tueini who were both later assassinated in car bombs in Beirut. See Knudsen, "Acquiescence to Assassinations in Post-Civil War Lebanon?".

43 Knudsen, "Acquiescence to Assassinations in Post-Civil War Lebanon?".

44 Knio, "Lebanon: Cedar Revolution or Neo-Sectarian Partition?" 226.

45 "About Us" from LADE website: www.lade.org.lb/LADE.aspx?lang=en-us (accessed 2 June 2014).

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47 Safa, "Getting to Arab Democracy", 22–37.

48 Ibid.

49 Clark and Salloukh, "Elite Strategies, Civil Society and Sectarian Identities in Post-War Lebanon", 733.

50 Ibid.

51 Lebanese Parliamentary Monitor, www.lpmonitor.org Nahwa el Muwatiniya (accessed 10 May 2011).

52 Civil Campaign for Electoral Reform, www.ccer-lebanon.org (accessed 12 May 2011).

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54 A review of donor websites reveals a surge in funding, see more in "Assessment of Capacity Building Needs of NGOs in Lebanon" (Beirut: United Nations Development Program), 6.

55 Karam, "Civil Associations, Social Movements and Political Participation in Lebanon in the 1990s", 318–320.

56 Samer Abdalla, Nahwa el Muwatiniya, interview with author, Beirut, November 2011.

57 Omar Abdel Samad, LADE Board Member, interview with author, Beirut, March 2013.

58 Ibid.

59 Ekmekji, "Confessionalism and Electoral Reform in Lebanon".

60 Ibid.

61 Most recently the UN tribunal has already implicated five Hezbollah members in the assassination of Hariri, see "Q&A Hariri Tribunal", *BBC World News*, www.bbc.co.uk/news/world-middle-east-12182326 (accessed 17 May 2014).

62 Knio, "Lebanon: Cedar Revolution or Neo-Sectarian Partition?" 225.

63 Salloukh, "The Limits of Electoral Engineering in Divided Societies: Elections in Post-war Lebanon", 651.

64 See for instance the way that elections could moderate ethnic conflict in Donald Horowitz, "Making Moderation Pay: The Comparative Politics of Ethnic Conflict Management", in *Conflict and Peacemaking in Multiethnic Societies*. Edited by Joseph Montville (Toronto: Lexington Books, 1990).

65 These categories also overlap and reinforce one another.

66 For a basic definition of the role of a democratic election see Schmitter and Karl, "What Democracy is … and is Not", and for the objectives of an electoral system see Daniel Horowitz, "Electoral Systems: A Primer for Decision Makers", *Journal of Democracy* 14, no. 4 (2003): 115–127.

67 As Deputy Coordinator of this operation, I helped devise an observation methodology using 267 legal and political indicators, open 30 local observation offices,

and train and deploy 3000 observers, and issue three pre-elections and one Election Day report.

68 Salloukh, "The Limits of Electoral Engineering in Divided Societies", 642.

69 "Lebanese Elections: Briefing Report" (Beirut, International Foundation for Electoral Systems, 2005).

70 Landau, "Elections in Lebanon", and Salloukh, "The Limits of Electoral Engineering in Divided Societies".

71 Richard Chambers, "Lebanon's 7 June Elections: The Results", International Foundation for Electoral Systems, www.ifes.org/files/IFES_LebanonReview060709Results.pdf (2009) (accessed 2 July 2014).

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73 Chambers, "Lebanon's 7 June Elections: The Results".

74 Overview of the 2009 Electoral Districts (by confession and number of parliamentary seats (Beirut: International Foundation for Electoral Systems, 2009).

75 Lebanese government elections website from the Ministry of Interior and Municipalities website, www.elections.gov.lb/Elections-Results/2009-Real-time-Results.aspx?lang=en-us (accessed 15 February 2014).

76 Official results from the Ministry of Interior and Municipalities website.

77 Ibid.

78 Salloukh, "The Limits of Electoral Engineering in Divided Societies", 650.

79 Corstange, "Vote Trafficking in Lebanon".

80 Cammet and Issar, "Bricks and Mortal Clientelism", 383.

81 Confidential, Member of Parliament from 2009–present, interview with author, Beirut February 2014.

82 Jennifer Gandhi and Ellen Lust-Okar, "Elections under Authoritarianism", *Annual Review of Political Science* 12 (2009): 403–422.

83 See Ben Reilly, "Electoral Systems for Divided Societies", and Arend Lijphart. "Double-Checking the Evidence", *Journal of Democracy* 2, no. 3 (1991): 42–48.

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86 El Khazen, "Political Parties in Post-war Lebanon: Parties in Search of Partisans".

87 Geha, "Role of Lebanese Youth in Elections and Political Parties".

88 Focus group results with representatives of youth factions of seven political parties, conducted by author, Beirut, April 2013.

89 Magnus Ohman, "The Political Finance Framework in Lebanon" (Beirut: International Foundation for Electoral Systems), 4.

90 LADE activists claim they reported documented cases of vote buying that the judiciary never acted on, Gilbert Doumit, General Coordinator of 2009 Observation Mission, interview with author, Beirut July 2012, also see more on the weak court system in International Centre for Transitional Justice, "Failing to Deal with the Past: What Cost to Lebanon" (January 2014), http://ictj.org/sites/default/files/ICTJ-Lebanon-Impunity-Report-2014.pdf (accessed 30 May 2014).

91 Corstange, "Vote Trafficking in Lebanon", 485.

92 Daniel Corstange, "Vote Buying under Competition and Monopsony: Evidence from a List Experiment in Lebanon", paper presented at 2010 Annual Conference of the American Political Science Association (Washington DC, 2010).

93 Confidential, Member of Parliament, interview with author, Beirut, November 2013.

94   Confidential, member of the campaign team of candidate in South of Lebanon district elections of 2009, interview with author, Beirut, February 2012.
95   For details on socio-economic services during and after elections see Cammet and Issar, "Bricks and Mortal Clientelism", 383.
96   Ohman, *The Political Finance Framework in Lebanon*, 9.
97   Pre-elections second report, Lebanese Association for Democratic Elections, Beirut 2009.
98   Gilbert Doumit General Coordinator of 2009 observation mission, interview with author, Beirut, February 2012.
99   Mona Yaacoubian, "Lebanon's Parliamentary Elections: Anticipating Opportunities and Challenges" (Washington DC: United States Institute of Peace, 2009).
100 See "The 2009 Lebanese Election: A Technical Assessment of the Electoral Process" (Virginia: Lebanese Information Centre Research Department, 2009), 9–10.
101 "Behind the Scenes: Business Management Practices of Lebanese Media Outlets" (Beirut: Internews Network, 2009).
102 Marwan Kraidy, "State Control of Television News in the 1990s in Lebanon", *Annenberg School for Communication, Departmental Papers* (University of Pennsylvania, 1999).
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104 See for example Lorenzo Trombetta, "Media Landscapes: Lebanon", *European Journalist Centre*, http://ejc.net/media_landscapes/lebanon (accessed 10 June 2014).
105 See for example the report on media coverage and violations of the Supervisory Commission for Electoral Campaigns in 2009, www.licus.org/liclib/LICRD/elections09/SCEC-Report-Number1.pdf, (accessed 5 June 2014).
106 Republic of Lebanon, Parliamentary Election law 25/2008, October 2008, Article 11.
107 Doreen Khoury, "The Lebanese Parliamentary Elections: A Surprise but No Real Change", Heinrich Böll Stiftung Middle East (2000), http://lb.boell.org/en/2014/03/03/lebanese-parliamentary-elections-surprise-no-real-change-statehood-participation (accessed 20 March 2014).
108 Arda Ekmekji, SCEC member, interview with author, Beirut, March 2011.
109 Ibid.
110 Yaacoubian, "Lebanon's Parliamentary Elections", 13.
111 Ibid.
112 Confidential, campaign representative in the North district, interview with author, Beirut, April 2012.
113 The Lebanese Association for Democratic Elections published pictures the week before the June 2009 elections of how various lists designed their ballot papers.
114 Yaacoubian. Lebanon's Parliamentary Elections.
115 Confidential, campaign representative in the Metn district, interview with author, Beirut, May 2012.
116 Al-Hindy, "The Dilemma of Human Rights in Lebanese Electoral Laws", 28.
117 Yara Nassar, LADE founder and executive director, interview with author, Beirut, October 2011.
118 Donors include the National Democratic Institute, USAID's Office of Transitional Initiatives, European Union among others. Confidential, leading Lebanese journalist covering LADE observation mission, interview with author Beirut January 2012.
119 The activists succeeded in pushing their reform "agenda" forward and their demands were then echoed by international observation missions such as the European Union and the National Democratic Institute.
120 See "A Guide to the Proposed Law", *Civil Campaign for Electoral Reform* (Beirut, 2008).
121 See Ekmekji, "Confessionalism and Electoral Reform in Lebanon".
122 Arda Ekmekji, Botrous Commission Member, interview with author, Beirut, March 2011.
123 See campaign website www.ccerlebanon.org (accessed 12 April 2014).

124 Richard Chambers, Chief of Party for International Foundation for Electoral Systems, interview with author, Beirut, December 2013.
125 Nabil Hassan, Outreach Coordinator for CCER, interview with author, Beirut, April 2013.
126 Richard Chambers, Chief of Party for International Foundation for Electoral Systems, interview with author, Beirut, December 2013.
127 Yara Nassar, LADE founder and executive director, interview with author, Beirut, October 2011.
128 See statement by the campaign about its demands and the file it handed parliamentarians before they left to Doha on 19 May 2008, www.lebanonfiles.com/news/65247 (accessed 13 June 2014).
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130 Yara Nassar, LADE founder and executive director, interview with author, Beirut, April 2011.
131 Confidential, West Bekaa coordination office of LADE, interview with author, Beirut, March 2013.
132 Confidential, Akkar coordination office of LADE, interview with author, Beirut, March 2013.
133 LADE made the argument that they needed to validate this data before making it available to the public and in the end only released the final elections report a year later. Gilbert Doumit, General Coordinator of 2009 observation operation, interview with author, Beirut, February 2012.
134 Nabil Hassan, Outreach Coordinator for CCER, interview with author, Beirut, April 2013.
135 Ibid.
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5 Libya

Intricacies of a stateless society

> The state is therefore constructed out of, and given legitimacy by, society, which
> also retains the authority to dissolve the government if it acted unjustly...
>> Saif Al Islam Al-Gadhafi, PhD thesis for LSE, 2007[1]

5.1 Introduction

Libya's chequered history and volatile situation at present place challenges on reform emanating from both the social and political spheres, and from the interaction between them. From a historical institutionalism perspective, Libya, as a post-colonial society, had undergone a brief period of state building that was later transformed into a personified state order under Mu'amar Gadhafi. In this sense, the Libyan state was strong, but highly centralised on Gadhafi and his loyalists. However, this personification contributed to weakening the capacity and legitimacy of public institutions. Libyans have also endured a history of tight control over political and civic organisations; as such, the main avenues of activism have been through religious, ethnic or tribal organisations. In more contemporary Libya there has been a rise in civil society organisations as a result of the juncture of the 2011 uprising, but the role and influence of these organisations is still to be assessed. Lastly, Libya has begun to adopt a system of national power-sharing as a means of involving various communities and political factions in the transition. This in turn may have weakened the ability of ordinary citizens and civic organisations to meaningfully take part in the transition or to hold political leaders accountable, particularly in the process of constitutional development. This chapter lays the foundation for an analysis of the forms of path dependence that the Libyan transition has experienced between 2011, when the uprising began, and 2013 when an electoral law for the Constitutional Drafting Assembly was enacted.

Libya's political order is still an under-theorised topic in the literature on political studies in the MENA region. For decades the international community, and the academic community, had little access to what was happening in the country and Libya's own citizens were marginalised in the political process.[2] Unlike Lebanon, Libya was never a parliamentary democracy and had very little experience regarding elections or civic movements. That is not to say that there was no civic opposition to Gadhafi's authoritarian rule, but much of the activism was confined to diaspora groups or to marginalised areas inside Libya.[3] Libya had also experienced a brief electoral period between 1952 and 1969. In addition, much like Lebanon, the formation of the state after independence was rather swift and followed a process of ad-hoc unification. As such, the three regions, known at the time as Fezzan (South), Tripoli (West) and Cyrenaica (East), harboured unresolved tensions and disparities that continued after independence. Traditional allegiances, such as those between tribal actors, continued to play a dominant role in representation and conflict mitigation after independence. Like Lebanon, though for different reasons, Libya exhibits a "crisis of state" that exacerbates factionalism, conflict and the empowerment of non-state actors at the expense of state institutions.[4] Ultimately, such historical, regional schisms would feed into a very unstable political order after Libya's recent juncture: the 2011 uprisings.

The Libyan state from colonial times onward has been quite exclusionary, as it did not arise from a locally rooted process of popular legitimation. The state has always been constructed at the hands of leaders who swiftly rose to power and who were not particularly representative of Libya as a nation.[5] Following the 2011 uprisings, Libyans are facing similar challenges to those of the Lebanese, as evidenced by the difficulty of the new state institutions in launching a formal constitutional process. My case study of civil society activism in the development of a new constitutional order between 2011 and 2013 analyses how new and old tensions undermined the critical juncture and instead brought about only a partial change to the political order.

In this chapter I present a historical background to the state and political order in Libya with the aim of understanding the challenges to political reform that Libya faces at present. The chapter is divided into six parts. At first, I explore three Libya-specific concepts that affect the dynamics and trajectory of the new constitutional process. The chapter then provides an overview of the history leading up to Libya's independence and troubled unification. It then discusses the dynamics and political order under the Libyan monarchy between 1951 and 1969. The fourth section describes the "stateless" character and de-politicisation of the legal and political order under what came to be known as Gadhafi's *Jamahiriya*. The fifth part lays a foundation for analysing Libya's critical juncture of 2011 and the undercurrents of the uprising that ousted Gadhafi's regime. The chapter concludes with the implications of the path dependence approach when interpreting the challenges to political reform in today's Libya.

5.2 Libyan-centric terms

I identified three concepts that are salient in the Libyan political lexicon. They are signs of Libya's historical path dependence regarding specific power struggles emanating from a centralised and exclusionary state that lacks support from its citizenry; the terms are used by political leaders to explain specific decisions and defend their stances at various critical junctures. At the same time these

terms also point to deep divisions, mistrust, and weak representation among Libya's diverse citizenry.

Revolution (*al thawra*) has carried different political and ideological notions at three critical junctures in Libya's history. Initially, the *thawra* was the impetus to seek independence from Italian colonial control. Symbolised by the armed uprising of Omar Al Mukhtar, the early use of the term revolution meant a movement directed toward ridding the country of external control and establishing an independent Libyan state.[6] Then, King Idriss who "won" this first anti-colonial revolution established a centralised political order that allowed him the freedom to construct his own foreign and local economic policies without having to strengthen state institutions.[7] Subsequently, in Gadhafi's rhetoric, revolution was propagated as a new political, social, economic and ideological movement, initially in terms of Arab nationalism and later on for the construction of a new populist political order. When Gadhafi and the Revolutionary Command Council (RCC) took over following the 1969 coup, their revolution called for a full evacuation of foreign forces, national and Arab unity, and the end of political parties. To eliminate political opposition the RCC transformed the national bureaucracy into a political mechanism for citizens to formally participate in the system in exchange for their loyalty to this new revolution.[8]

When this research took place, the General National Congress and the National Transitional Councils had aimed at filling the political vacuum that emerged after the revolution of 17 February 2011. Yet both entities often lacked the capability to reinvigorate public institutions and create mechanisms for citizens to take part in the "new" Libya. In this context, while the term *thawra* can signify political novelty, it also pointed to a lack of a reconciliation process and formal state building process. It appears that every critical juncture that involved a revolution rejected the past but was unable to reconcile internal conflicts and schisms through a viable state structure. This is why the foundations of the Libyan state are weak, as they do not rest on a unifying political order that all Libyans can identify with. As a result, Libya's public institutions and government structures have undergone three administrative "revolutions" that left them fractured and incapable of offering post-revolution stability and security, as will be explained later in this chapter.

The second term pertinent to an account of why the Libyan state and its institutions have been weakened over time is the contested relationship between Libyans in different areas of the country. Regionalism (*jihawiya*) is a key political term and also a statement of an administrative, political and cultural belonging to a specific region (*jiha*). According to Davis, Libya is "geographically an agglomeration of the fringes of other areas".[9] The South is culturally closer to the African Sahel than to Libya's coastal areas. Tripoli and the Western parts are closer to the Maghreb cultures of Tunisia and Algeria. The Eastern region shares a border and cultural traditions with Egypt.[10] Historically, the unification of the South (Fezzan), East (Cyrenaica), and West (Tripoli) was not accompanied by state policies to support equitable social and economic development.[11] As such, since the independence of Libya in 1951, local leaders representing ethnic

minorities, tribes, and Islamist organisations were detached – geographically and politically – from a weak central authority established under the monarchy. With Tripoli as the political capital, the Western regions enjoyed greater investment in social and economic development at the expense of other regions under the monarchical system.[12] After 1969, Gadhafi, whose family is from Sirte in the Western region, also favoured the towns surrounding Tripoli over other areas. King Idriss' supporters in Cyrenaica were seen as being punished and deliberately impoverished by Gadhafi.[13] In turn, this is one of the reasons why the strongest opposition to Gadhafi would come from the Eastern parts of the country in the run up to the 2011 uprising.

At the outset, the 2011 uprising united Libyan regions and non-Arab ethnic groups (the Amazigh, Tabu and Tuareg) against the regime.[14] But this was an alliance among bedfellows who had only a single shared purpose – the removal of Gadhafi. The uprising witnessed violent struggles against the regime's military in the East, West and Southern regions, indicating a nation-wide opposition to Gadhafi. But there was little agreement among these groups beyond the need for regime change and, as the transitional period would reveal, there harboured deep contradictions about how the new Libyan state should be shaped.[15] The transition following the events of 2011 resulted in regionalism of a more organised nature and weakened the legitimacy of the National Transitional Council. At present, *jehawiya* is a serious obstacle to the building of an effective central government in Libya, as residents in the regions still harbour fear and scepticism about a unified political order. The spread of violence and complete deterioration of state institutions after 2014 reveals a path dependence on a central leadership able to oppress opposition or mitigate conflict, a leadership role that appears utterly void at present. Demands, especially from the Eastern part of the country, for a federal Libya have stood in the way of creating a central security apparatus and an infrastructural planning authority. As such, Libya is once again unable to push for national, social and economic policies that would address the priorities and disparities across the regions. The constitutional dialogues investigated in the next chapter will further reveal how residents in each *jiha* have varying priorities that could well be too challenging for a central government to address.

The third key term here is Libyan identity (*al-hawiya al libiya*) and what it means to be Libyan. Libyan identity has historically been influenced by shades of Arab, African, Islamic, tribal and ethnic roots. This "mixed identity" has affected the historical patterns of political participation and has been used by Libya's rulers to either unite or divide Libyans. To begin with, the Islamic religion has been a salient element of Libyan identity throughout the country's history. Islam is a unifying proposition that political leaders, use or abuse, to shape political behaviour and choices at different junctures. According to Joffe, Libyans themselves "are the products of an Islamic environment and still evaluate the world in terms intimately connected with their faith".[16] Thus, at every successful *thawra* and critical juncture the new regime has had to justify legitimacy by using the Islamic faith as a shared basis for Libyan identity. For

instance, as soon as Gadhafi took over power in 1969, he adopted the Islamic lexicon and formulas as a strategy to unite people and show his respect for Libyan culture and Islam.[17] In 2011, the head of the National Transitional Council's first speech was a statement that Islam would be the basis of legislation and that the new regime would allow polygamy as an assertion of the Islamic identity of all Libyans.[18] Islam and Islamist organisations were also sources of opposition to Gadhafi; although highly repressed by campaigns of imprisonment and violence, the Muslim Brotherhood emerged as a key player in the "new" Libya after Gadhafi's ousting.[19] As the constitutional dialogues would reveal after 2011, the Islamic religion is one of the key determinants of the types of freedoms and rights that Libyans expect from the new political and constitutional order.

Islamic actors, however, can be seen as casting a shadow over a more complex Libyan identity, or identities. In part, this is because the issue of minorities (*akaliyat* plural *akaliya*) is a politically loaded topic, and Islamic identity is only part of this issue. Although it may be true that Islam is the religion of the majority of, if not all, Libyans, the question of whether Libya is primarily African, Arab, Islamic, or all of three, is still a troubling issue for Libyans.[20] Islam, therefore, is only a partially unifying factor regarding Libyan identity. The existence of ethnic groups and the way in which the monarchy and then the Jamahiriya addressed the issue of minorities, has led to a fragmentation of Libyan identity and to great levels of tension and mistrust between ethnic or tribal minorities. More importantly, masked by the state strategy of promoting Islamic ideals at different junctures, there are also significant levels of mistrust and tensions between the minorities and the state.

In addition to the Islamic faith, tribes, or clans, in Libya play an important role in shaping Libyan identity and structuring political demands. There are around 140 recognised tribes, of which the most well known are the now "anti-Gadhafi" Warfalla tribe and the Misurata tribe (which takes its name from the district of Misurata).[21] There are also "pro-Gadhafi" tribes whose members filled senior governmental positions during the Jamahiriya, such as the Al-Awaqir tribe and Gadhafa tribe.[22] After 1969, Gadhafi curbed the power of some tribal elites and established alliances with other tribes to secure support for his new local and national structures.[23] Tribes in Libya are not only part of the Libyan identity, but are a key mechanism for political participation and sources of political opposition. Although the post-Gadhafi era brought new faces to power they were all from old tribes and old families.[24] Because of these informal political structures, Libyan political leaders, like those in post-Syrian Lebanon, derive their power and legitimacy from ties that date back to the Ottoman Empire and tribal and ethnic factors in Libyan politics diminish from the role of Islam as a unifying force. Despite the junctures that occurred through the restructuring of the administration under the monarchy, or through encouraging direct participation under Gadhafi, and most recently the mass uprisings, the tribes have survived long periods of turmoil and are still the entities providing political, social and ethical organisation in society.

Additionally, and despite the attempted strategy of spreading Islamic ideals and controlling tribal groups undertaken by both the monarchy and Gadhafi, ethnic identities play an additional important role in shaping national identity and political participation. Four main groups are regarded as non-Arab minorities: the Tabu, Tuareg, Tawergha and Amazigh (Berber). The Tabu are mainly based in the south of central Libya, sharing borders with Chad and Niger.[25] The Tabu as an ethnic group inhabit a traditional territory which does not conform to the territorial boundaries established as a result of colonial penetration.[26] The Tabu have long been persecuted in Libya, particularly under Gadhafi who implemented policies of "Arabisation" aimed at a form of "ethnic cleansing" by denying citizenship, housing and employment to the Tabu community. Although they joined the 2011 uprising against Gadhafi, the Tabu are still largely excluded from the state and face challenges to obtaining citizenship and access to public services.[27]

The 1951 constitution stated that "all Libyans are equal before the law", affirmed Islam as the religion of the state and declared Arabic to be the official language.[28] However, Gadhafi's subsequent Arabisation project embodied his vision of a "stateless" society by excluding diverse political identities in order to perfect direct democracy.[29] This signified the beginning of organised discontent by the Berber-speaking Amazigh community. The Amazigh community, which comprises close to 500,000 citizens, was banned from using their language in schools, courts and media. Those in the South of Libya were even denied citizenship.[30] The Tuareg, however, were able to ally themselves with Gadhafi by serving in the military, and gained the protection and benefits of the state in return for their loyalty. The Tuareg therefore fought with the regime in 2011 and currently suffer from displacement, violence and oppression as a result of their past allegiances.[31] Lastly, the Tawergha, who are descendants of former slaves and whose greatest concentration is in a town called Tawergha east of Tripoli, were historically closer to the regime, but during the uprising they split into pro- and anti-Gadhafi factions.[32] As the transition period will reveal, these three ethnic groups, as well as the internally displaced Tawergha, add to the tensions along with Islamic organisations and tribes, making unification and national reform even more challenging. The actors described here have different histories and also different expectations from the transition explored in this study. The constitutional dialogues highlight these differences as one element of continuity that has its roots in Libya's turbulent history.

The three notions covered here embody the features of path dependence in Libya. These notions of revolutionary rhetoric and practice, regionalism, and the complexity of Libyan identity continue to challenge Libya's ability to build a strong state. Because identity and loyalties are fractured and dispersed between regions and ethnic groups, actors during the post-2011 transition often saw power-sharing as the most suitable solution to their problems. In turn, this approach continued to weaken state institutions and challenge the relationship and role of civic organisations with regard to the state. It made the state in Libya difficult to reform but also weak enough to adopt changes that promoted religious, tribal and regional power-sharing mechanisms, or that invited autocratic rule, as will be illustrated in the next chapter.

5.3 Libya under the Ottoman Empire, and Italian colonisation

Libya prior to independence exhibited two key characteristics relevant to the study of political reform. First, the tensions between its three geographical regions (Fezzan in the South, Cyrenaica in the East, and Tripoli in the West) have their roots in the Ottoman period. Second, the influence of colonial powers and subsequent independence contributed less to building a strong state than to making Libya more of a stateless society. Both these factors undermined the emergence of a strong nationalist movement at the time of independence. This section provides the background to these two issues before moving on to present the dilemmas surrounding the unification of Libya.

The Ottoman Empire administered Libya as three separate territories from the 16th century until 1911. By 1835, the Ottoman Empire had occupied Tripolitania, Fezzan and Cyrenaica during three campaigns of conquest and practiced direct rule for 76 years.[33] These territories were internally unstable and the local economy was undermined by years of local feuding. Most of the political and economic power was centred in Tripolitania and Cyrenaica, whose respective governors (*mutasarref*) had to report directly to the Ministry of Internal Affairs in Istanbul. By the mid-1850s the provinces underwent reforms dictated by Istanbul (*tanzimat*) that included administrative, commercial, and educational reorganisation and further centralisation. The consolidation of Ottoman control in the province of Tripoli between 1850 and 1880 made this province the de facto administrative and political centre for all three regions.[34]

The Ottoman regime sought to undermine and weaken the leaders of tribes, and to disperse their prominent members, in their attempts to contain any potential opposition. But tribal loyalties and the role of tribes in providing social and political protection to their members remained significant during this time.[35] The Ottomans used tribal connections to select leaders who were supportive of their policies and weakened leaders who were not considered to be reliable.[36] For an entire century the Ottoman local and foreign policies were geared toward countering European expansion by administering a centralised political system and following a strategy of undermining local leaders who were not aligned with Istanbul.

Following the outbreak of hostilities between Italy and the Ottoman Empire in 1911, Italian troops occupied Tripoli. The Ottomans and their Libyan subjects continued to fight the Italians until 1914, by which time Italy controlled most of Tripolitania.[37] Following the 1918 peace treaty between the Turks and the Italian, Italy gained nominal control over Tripolitania and Cyrenaica. In 1929 Italy gained control over Fezzan despite resistance from local tribes.[38] At the time of Italian colonisation, Sayyid Idriss was the grandson of the Grand Sanussi (Sayyid Mohammad Ali Al-Sanussi), a Sufi leader born in Algeria who preached the purity of Islam as an alternative to the classical interpretations of the traditional religious authorities (*ulama*).[39] Sayyid Idriss settled in Cyrenaica where he became the leader of the Sanussi brotherhood in 1916, and the armed resistance of the brotherhood to Italian rule led to his recognition by the Italians as the Emir

of Cyrenaica in 1920.[40] In 1922, Sayyid Idriss accepted the rule of the Emirate of Tripolitania and became Emir of both Cyrenaica and Tripolitania.[41] Idriss attempted to negotiate full independence from Cyrenaica from Italian rule; however, he lost the ensuing war and was forced into exile in Egypt in 1922.

From Egypt, Idriss waged and supported asymmetric warfare against the Italians. While Idriss, with local supporters in the East, gained ground against the Italians, another source of resistance came from Umar Al Mukhtar, who organised resistance (*jihad*) against the Italians. Al Mukhtar was captured and executed by the Italians on 16 September 1931.[42] Al Mukhtar's supporters held a united Libya as their main priority, while Idriss was keener on the independence of the Sanussi Emirate, even if it meant separation from Tripoli.[43] The Italian colonial era dismantled the existing political and economic system in the provinces and replaced it with a new political, social and economic system that was based on the repression of local notables, the confiscation of lands, and the institutionalisation of a colonialist project across Libya without room for local political participation.[44]

In 1934, Italy formally united Tripolitania and Cyrenaica as the colony of Libya and later adopted the name "Libya" as the official name of the colony that comprised the three provinces of Cyrenaica, Tripolitania and Fezzan. The modern dynamics of *jihawiya* initially emerged as separatist claims that were voiced most prominently from the Eastern region. Al-Sayid Idriss was popular throughout Cyrenaica, but was regarded with scepticism in the Western and Southern regions.[45] Italy's rule over Libya continued until the Second World War, followed by a short period of administration by the French and British. Idriss succeeded in forming strategic ties with the British military administration in parts of Tripoli and the Western region. Under the terms of the 1947 peace treaty with the Allies, Italy relinquished all claims to Libya.[46] King Idriss returned to his hometown in 1947.[47] In November 1949, the UN voted and stated that Libya should become independent.[48] For the British, al-Sanussi was a convenient ally who could guarantee Libya would not experience the same kind of upheavals caused by the nascent Arab nationalism that was beginning to emerge in Egypt.

Under the auspices of the United Nations, representatives of the three provinces of the East, West and South of Libya formed a National Assembly, which at its first meeting on 2 December 1950, agreed that Libya was to become a constitutional monarchy, and that Idriss al-Sanussi would be the head of state of the United Kingdom of Libya. Libya adopted a federal system of governance that gave wide powers to the three provinces.[49] King Idriss displayed an accommodating attitude towards Western power by signing an Anglo-Libyan treaty in 1954, which was unpopular in the country.[50] The post-independence governmental institutions could not mitigate social tensions or create a representative public bureaucracy. Owing largely to the fragmentation of political authority among the three regions after political oppression under the Ottomans and fascist Italy, Libya at independence did not have significant political parties. Ethnicity, family, and tribe continued to play an important role in the political and economic orientations and relations of the internal actors post-independence.

5.4 Libya's 1951 independence and first constitution

While other countries in the region, including Lebanon, had the chance to carve out a nationalist movement that worked towards independence and that united several geographical areas, Libya's swift accession to independence did not facilitate the building of a national identity and was more of an unexpected event rather than a process. According to Vandewalle, Libya moved from colonialism to independence by the decision of the Great Powers and the United Nations, "without a unifying ideology or a movement whose goals and aspirations were shared throughout the country".[51] The political momentum between Tripoli and the Great Powers that paved the way for independence was largely detached from the rural areas. In these areas traditional elites continued to be the main focal points for social and political mobilisation, and the elites derived their claims for leadership from lineage, tribe, wealth and Islamic piety.[52] The monarchy therefore faced several challenges in attempting to unify the three regions and, with a very small central administration, had to rely on family and tribal relations to organise social and economic life. In addition, deep economic disparities and entrenched poverty also limited the ordinary citizens' ability to participate in the process of state building.[53]

In 1951, the National Assembly, supported by UN Commissioner Adrian Pelt, drew up Libya's first constitution.[54] Given the divergent interests of the different regions, and particularly those of Cyrenaica and Tripolitania, what emerged was a political system, comprising a parliament, a federal government and powerful provincial councils, whose heads were appointed by the king.[55] Appointment of heads of councils was an indication that despite the federal structure the monarchy sought to create a strong central government. The 1951 constitution created a federal constitutional monarchy that placed substantial power in the hands of local provincial governments. It gave considerable executive and judicial powers to the monarch, who had the power for instance to issue political amnesties to convicted criminals and to declare a state of emergency (article 70). Although the constitution guaranteed the right to form political parties (article 26), the monarchy strictly limited political activity and undermined civic and political movements by restricting freedom of assembly. The monarchy established a form of governance that de facto made families and tribes the principal structure of political competition.

The process of developing Libya's first constitution was nonetheless a partially inclusive and representative process. While the Lebanese constitution was developed by elite political leaders with the support of the French, the Libyan constitution engaged a large number of actors through a dialogue with local elites. According to a Libyan constitutional expert, the significance of the first constitution resides not in the content of the constitutional text, but rather in the inclusive process of drafting it.[56] An appointed drafting committee spent at least 25 months and conducted more than 187 meetings with representatives of local notables, economic actors, intellectuals, and tribal leaders from the three provinces.[57] This process is perceived today as exemplary by activists and intellectuals for several reasons;[58] first, the Libyan "founding fathers", who were

members of the elite, according to constitutional lawyer Mohammad Berween displayed a great deal of political awareness by reviewing the experience of other countries and seeking help from outside.

A second distinguishing feature was the role of UN commissioner Adrian Pelt, whose name is fondly recalled by contemporary activists in Libya today. Pelt spent weeks in each of the three provinces surveying the attitudes of notables in the three provinces before selecting a consultative committee for the drafting of the constitution.[59] This was particularly important for the Southern region whose voices at that stage had not been included thus far in the new state. Pelt ended up choosing four representatives, one from each of the Eastern, Western and Southern regions and an additional person to represent non-Arab minorities to guide his work and that of the provisional National Assembly. These representatives were called the "working group" and were responsible for aiding the Commission in its consultations and relations with local notables. At the time, minorities did not include ethnicities that originated from Libya, but only those who were non-Libyans.[60] Berween and others have explained this first constitution was developed having in mind a diverse, democratic Libyan society that would treat citizens equally.[61]

The third important characteristic of the 1951 process was the creation of a committee of 21 members that was selected by the Pelt Commission to prepare a plan for the appointment of the National Assembly. Although there were demographic disparities, this committee agreed to appoint the same number (seven) of representatives from each region to give an equitable hearing to each of the regions.[62] The representatives were able to give input on the end result of the committee: the appointment of a National Assembly that comprised 60 members, 20 from each province and that was responsible for drafting the constitution.

However, although the 1951 constitution was the result of much time and effort spent on local consultations, it did not completely succeed in appeasing tensions and mitigating challenges among the three regions and the tribal and ethnic groups. The committee did not fully consider the significance of separatist demands in the East, nor the extent of marginalisation in the South. The process also laid the ground for Libyan ethnic communities to become disillusioned with the depiction of Libya in the new constitution as an Arab nation and allowed for subsequent state-controlled policies to Arabise the history and identity of Libyans. The 1951 "dialogue" process ended only with a recommendation by the UN Commission to include one representative on behalf of Libyan minorities.[63] In addition, although tribal leaders were consulted on broad constitutional issues, the sample that Pelt surveyed was not representative and as such represented only a partially inclusive process. As it turned out the constitution would be short-lived.

In 1952 Libya held its first general elections in which pro-government candidates won the majority of seats.[64] The elections were followed by riots that led King Idriss to ban all political parties.[65] The riots were motivated by the lack of agreement among Libyans on the form of government the state had adopted. This indicated that the decision of the constitutional drafting committee to adopt a federal system was not endorsed by many Libyans. Initially, King Idriss

allowed for the operation of political parties in Tripoli that were calling for unification. But after the first elections in 1952, the King became less tolerant and stifled demands for unification.[66] The partially inclusive constitutional process was replaced with a more authoritarian governance system that the monarchy was able to control more centrally. The discovery of oil a decade later made unification an administrative requirement for effective management of the oil sector. Although state institutions lacked the competence to properly regulate the oil sector and manage its financial returns, centralising decision-making facilitated control over the country's wealth and oil revenues.

In 1963 the King, aided by the constituent assembly, turned Libya into a unitary state to gain control of oil resources and of the local councils. The 1951 federal system had created provincial councils in the regions of Tripoli (West), Benghazi (East), and Sebha (South), but by 1963 the need for unified legislation, especially for the oil sector, led to a constitutional amendment to make Libya a unitary state system.[67] From the perspective of the monarchy, the federal structure between 1951 and 1963 was hampering the ability of successive governments to make decisions and execute policy. The 1963 amendment did not directly strengthen the role of the central state or build a stronger sense of national identity. Libyans were coerced into accepting the unification, but at the local level would continue to identify with region and tribe.[68]

The 1951 constitutional experience was the first potentially critical juncture which, judging by the political outcome in 1952, provided the foundations for partial reforms under the monarchy; the subsequent amendment for Libya to become a unitary system however was the most significant of these reforms, but was not welcomed by the majority of Libyans. The constitutional amendment was a swift political decision that allowed the King to centralised power and consolidate his personal grip over oil resources and resource distribution. The amendment lacked an administrative and institutional structure to support the economic and social development of the three regions. By vesting power in King Idriss, the 1951 constitution effectively allowed the King to promulgate laws (article 62) and even enjoy a veto power over legislation (article 136).

From a political perspective, oil revenues in the 1960s did not contribute to strengthening the state's legitimacy. Oil revenues made Libya a capita-surplus nation, but that richness was not "felt" by the population as the economic policies of the monarchy redistributed wealth unevenly and the central administration itself was seen as largely corrupt and self-serving.[69] The monarchy therefore distanced itself from most of rural Libya, from minorities, and from the masses. It also made Libyans even more connected and loyal to the smaller informal units that appeared to be protecting them from the biased policies of the monarchy. Tribal and ethnic relations once again emerged as the keystone of identity and social stability, especially in the peripheries.[70] The King failed to transform tribes and ethnic minorities into supporters of the monarchy; he could force them to comply with his demands, but could not undermine their legitimacy at the local level. The monarchy's main source of legitimacy increasingly came from the economic patronage it provided through oil revenues.

5.5 Gadhafi's regime (1969–2011)

By the mid-1960s the monarchy had very little legitimacy and lacked support, especially outside of the Eastern region. Its effort to retain authority through centralisation backfired by causing resentment within Libya's military institutions. Backed by arms and popular support from within the military, new leaders began disrupting the chain of command within the administration and threatening the King's policies. In particular, the King's closeness to the West and his unbalanced economic policies caused young military leaders to lose trust in the new system and challenge the monarchy. This prompted a bloodless coup by the then 27-year-old Colonel Gadhafi on 1 September 1969. The 12 officers leading the coup came from lower-middle-class backgrounds and represented the three South, East and West regions of Libya.[71] This group had previously formed the "Central Committee" of a secret organisation within the Libyan army called the "Libyan Free Unionist Officers Movement". They subsequently renamed themselves the Revolutionary Command Council (RCC) and declared the creation of the Libyan Arab Republic with Gadhafi as the new leader.[72]

Colonel Muammar Gadhafi was young, charismatic and, like many of his generation, deeply dissatisfied with the monarchy. By the time he made a bid for power, Egypt's President Jamal Abdel Nasser had already established himself as the leader of the new Arab Nationalist movement that was threatening older regimes across the Middle East. Nasser was a fundamental inspiration to Gadhafi's personal and revolutionary development. Gadhafi's subsequent rule proved to be full of contradictions. First, Gadhafi put in place a strong authoritarian centralised structure while his rhetoric focused on a more populist, direct rule by the people. Second, his attempt at unifying Libyans under a new national identity was coupled with the repression of tribal and Islamic leaders that were part and parcel of this identity. Lastly, his attempt to modernise and open up Libya to the world was coupled with a de-politicisation and marginalisation of social and political actors. Three elements of continuity from the period of the monarchy are particularly relevant: a weak central administration that did not provide equitable social and economic provisions, a ban on political and civic organisations that de facto made tribes the key socio-political organisations, and regional tensions and disparities between East, West and South.

This section reviews the articulation of the above-mentioned tensions during four main periods of the Gadhafi era. The first phase was between 1969 and 1973 and was characterised with Gadhafi's attempt at bolstering national unity through his support for Arab Nationalism. The second phase, from the mid-1970s until the 1990s, was characterised by the institutionalisation of the regime's revolutionary practices. The third phase began in the early 2000s when the regime consolidated its power by replacing local administrations with loyal revolutionary committees and began the suppression of all opposition. The final period followed the 2011 uprising and ended in Gadhafi's demise.

Between 1969 and 1973, the regime focused on three main strategies to prop up its popularity: promoting Arab nationalism, fighting imperialism and corruption,

and combating Western imperialism (including the confiscation of the assets of Italians and Jews).[73] Gadhafi and his comrades used a populist socialist ideology, most apparent in the holding of public trials for the wealthy and the taking over of a number of private properties.[74] They also asked the Americans and British, whose armed forces had been stationed in Libya since independence, to evacuate their military bases. Importantly, they nationalised the American oil companies. Gadhafi's Arabism strategies also included a vision to Arabise Libya's non-Arab minorities.[75]

The new regime at the time had to grapple with two key forces that could weaken its base. The first of which was the role of tribes. Gadhafi understood the importance of not attacking the tribal order frontally and advertised his Bedouin tribal origins. At the highest levels of the military and political echelons Gadhafi succeeded in placing members of his own tribe and other tribes as a means of co-optation. The tribes loyal to him were referred to as the privileged class (*khassa*) and were awarded military and political positions.[76] To a certain extent, in his early period Gadhafi had to adopt a power-sharing agreement by professing to guarantee representation of tribal groups. His second dilemma was with the role of Islam. If Gadhafi was to distinguish himself from the monarchy, he had to articulate an important role for Islam in his new ideology. He recognised Islam as the religion defined by the regime, and as a means for religious and ethnic unity to enhance his own image. Gadhafi therefore focused on the centrality of Islam and argued that Islam was a divine concept that applied to anyone who believed in God.[77] In proclaiming that, he diminished the need for guidance from religious leaders and called for a more individualistic form of Islamic belief based on a direct relationship with God. He did so to weaken the role of religious leaders (traditional *ulama*) in social and religious socialisation. By preaching the need to embrace Islam as a whole he was discrediting the role of religious leaders, who he feared might teach Libyans to question his authority. His initial strategy to bring the principles of Arab nationalism to Libya was not convincing for many Libyans, who were practising Muslims, many of who adhered to the Sanussi order.[78] He wanted to appeal to the Islamic faith as a source of legitimation, but in parallel he antagonised Islamist groups. In practice, by trying to appropriate the Islamic faith he was effectively dismantling its political structures.

The new regime suspended the constitution and announced a constitutional declaration in December 1969 that designated the RCC as the highest political authority who could appoint the Council of Ministers.[79] As a result, successive governments would be comprised of individuals loyal to the RCC and close to Gadhafi. If the constitutional order was manipulated under the monarchy, it was completely undermined after the coup of 1969. Gadhafi's neo-Sultanist style of government thrived in a situation where the arbitrary use of state power was the norm. The RCC then purged the administration of officials who had served under the monarchy. In parallel, the Libyan army started to emerge as a major source of employment as the RCC replaced most officers above the rank of major with a younger generation of Libyans.[80]

RCC members then tried to encourage people to participate in the congresses but the new regime had little connection to the grassroots population and could only mobilise limited support for the process.[81] These were the first attempts to de-institutionalise the models of representation that had characterised the old regime and to replace its institutions with new leadership structures. But these new structures were not aligned with the religious, ethnic and political organisations that were valuable to Libyans. In the face of resistance to change, Gadhafi soon realised that he had to adopt a more centralised and coercive form of political representation if he was to stay in power. In June 1971, the regime announced the creation of the Arab Socialist Union (ASU), inspired by that of Egypt's Nasser and of a one-party populist rule in an effort to bypass traditional authorities, tribal organisations, and provincial structures.[82]

This second period could be described as the era of "Gadhafism" because of the deep personalisation of his rule. On 15 April 1973, the eve of the anniversary of the Prophet Muhammad's birthday, Gadhafi's "Zuwara" speech spelled out the five pillars of the new era: getting rid of "deviants" who opposed the revolution, abolition of "reactionary laws", arming the revolutionary masses, undertaking administrative and bureaucratic revolution, and declaring a cultural revolution. The speech called for a system where people could "govern themselves by themselves".[83] Behind these five pillars was the ideology of the "Third Universal Theory", which Gadhafi was promoting as a political system based on Arab unity, socialism, Islam and direct popular democracy. In doing so, he was delivering to the tribes, minorities and ethnicities a final blow and subjugating all sub-national identities under a nationwide Arab Islamic identity of which he was the guardian. After the famous 1973 speech, people's popular committees were put in charge of all national administrations, including Ministries, universities, hospitals and factories. By the end of 1973, more than 2400 locally appointed popular committees were approved by the RCC's councils and took up tasks at the provincial level.[84] Gadhafi also changed Libyan citizenship to "Arab citizenship" and amended that the right to nationality be given to anyone who claimed allegiance to the Arab nation.[85]

In 1975 Gadhafi published the Green Book, in which he expressed his new philosophy and Third Universal Theory. This marks the second period of institutionalisation reviewed here. The Green Book stated that the country's citizens directly managed its political and economic life via a form of direct democracy.[86] Gadhafi denounced the idea of a constitution, of a parliament, of elections and of democracy, claiming that these notions were based on propaganda and demagogy. He claimed that political parties were modern forms of dictatorship, Gadhafi thus stated that "this new theory is based on the authority of the people, without representation or deputation".[87] Libya's population was to be organised through grassroots people's congresses (*lijan shaabiya*) from which several People's Committees were formed and appointed by the congresses. Committees were responsible for managing municipalities, hospitals, schools and businesses under the guidance of the congresses.[88]

A third power structure was made up of Revolutionary Committees (*lijan thawriya*), whose mission was to direct and control all work undertaken by congresses and local committees. The Revolutionary Committees were effectively a paramilitary organisation that had the power to arrest, imprison and execute perceived enemies of the regime, outside of any law. Naturally, the Revolutionary Committees were closely monitored by Gadhafi's Coordination Office.[89] But the local congresses were far from a direct democracy as funding and policing tools were outside their remit. In this sense, they were para-public, as they could not provide oversight of the public bureaucracy, which was directly controlled by Gadhafi and his allies. Lastly, to overcome intra-elite struggle, Gadhafi stifled opposition to his appointees to local congresses and committees through his intricate internal security apparatus.[90]

This policy of local congresses illustrated a logic of "deinstitutionalisation" that entrenched Gadhafi's personal rule and created an institutional vacuum. The multiplicity of ad hoc committees with overlapping responsibilities generated an anarchic structure without a clear chain of command. Instead, congresses supported by the Revolutionary Committees would use patronage and local connections to select working committees responsible for running public services and for representing their respective municipalities in the provincial congresses. In the late 1970s Gadhafi's revolution became a more openly cultural revolution (*thawra thakafiya*) as the regime frequently exiled members of the Amazigh and burnt books on the Amazigh and other non-Arab groups.[91]

Through the redistribution of wealth obtained from oil exports Gadhafi was able to co-opt, silence or sponsor the various ethnic and regional groups that were historically antagonistic to the state. Once Gadhafi's enthusiasm for Arab Nationalism diminished, the basis upon which nationality was to be granted also changed as he opened up the door to immigration from Africa through Libya's South as a means of co-opting more non-Arab supporters. This resulted in the formation of three categories of Libyan nationals having distinct rights and who were not all equally recognised: (i) nationals from the 1954 law under the Monarchy; (ii) nationals from after the period of institutionalisation in the 1970s; and (iii) notable families with formal identification and recognition from the state.[92]

After 1977 in particular, the institution of government in its traditional legal-bureaucratic sense was dismantled, and the "people's authority", exercised through people's congresses and committees, was proclaimed. This new political order led to the official renaming of the country to the Jamahiriya – a neologism from *jamaheer*, meaning *the masses*. By 1977, the "era of the masses" had arrived and Gadhafi officially announced the renaming of Libya as the Arab Socialist People's Libya (*al Jamahiriya al Arabiya al libiyya al shaabiya al ishitirakiya*).[93] As happened earlier with the Arab Socialist Union party, Gadhafi did not succeed in garnering political support for the system. This failure led Gadhafi to become more repressive internally. Ahmida concludes that "in the 1980s, excessive centralisation, heightened repression by security forces, and a decline in the rule of law undermined Gadhafi's experiment in creating an authoritarian regime based on indigenous populism".[94]

Gadhafi felt increasingly challenged by the Islamists of the Muslim Brotherhood throughout the 1980s. For the most part, the regime succeeded in confining Islam to the social and private spheres. Yet, the rise in Islamic activism across university campuses and in local communities was seen as a direct threat by the regime. The appeal of the Muslim Brotherhood especially among the young indicated that Gadhafi's attempts to present his own version of Islam was not well received. In 1984, two students were hanged on the campus of Tripoli Al Fateh University and in 1987 Libyan television aired the public execution of nine other people linked to Islamic groups.[95] Such crackdowns on Islamic groups publicly silenced the Muslim Brotherhood and the Islamist factions, while covertly strengthening their appeal as a protest movement and also as a source of identity. According to an activist who was jailed for being a member of the Muslim Brotherhood at the time, it was Gadhafi's initial appeal to Islam that facilitated the growth of Islamic groups; "but when the Revolutionary Councils started to oppress devout ulama, we knew that Gadhafi's agenda would go against what we considered to be "Libyan" and that it was to be a good Muslim".[96]

Gadhafi's own idiosyncratic version of Islam insulted Libyans as he tried to reinterpret the words of the Quran, but Libyans could do nothing, as any objections were brutally suppressed. No matter what Gadhafi did, Islamist groups continued to be highly respected across Libya and enjoyed the highest levels of popularity in the eastern cities of Darna, Benghazi and Ajdabia. Although the Muslim Brotherhood was officially silenced by the end of the 1980s, the 1995 establishment of the Libyan Islamic Fighting Group (LIFG) grounded the main source of opposition to Gadhafi's rule in Islamic ideology and ideals.[97] This more radical form of opposition was in part a reaction to historical repression and years of marginalisation. The LIFG saw Gadhafi as oppressive and non-Muslim and sought to build a new Islamic state. Armed with weapons gained from fighting abroad, and after weeks of intense confrontation with the regime, the LIFG formally declared its existence in a communiqué calling Gadhafi's government "an apostate regime that has blasphemed against the faith of God Almighty" and declaring that overthrowing Gadhafi was "the foremost duty after faith in God".[98] Fighting continued to escalate until July 1996, when the government carried out a massive number of arrests and launched air and ground assaults on LIFG bases. By the end of the 1990s Gadhafi had militarily defeated any potential challenge from a number of Islamist movements, mostly centred in eastern Libya. LIFG operatives who were not killed or imprisoned by the regime are said to have fled.[99]

To continue defusing internal challenges and to discourage potential defectors in the military, Gadhafi reduced the capabilities of the army by withdrawing resources, leaving only a few well-equipped brigades with the sole mission of protecting the Leader and his allies from internal threats. Instead, he set up a number of paramilitary organisations manned by his own relatives and sons.[100] In 1993, tribal tensions led to an attempted coup by the Warfalla tribe. To counter this, Gadhafi tried to gain support for his policies through populist local councils, where he claimed that the tribes bore collective responsibility for the

actions of their members.[101] This was an outright threat; if anyone were accused of dissidence, entire families and tribes would pay the price. The 1990s were a juncture that the regime only partially managed to control and marks the second period of the Gadhafi era in this research. The brutal response to Islamists and the rise of tribal politics did not do much to increase the regime's credibility or popularity. It also indicated that both tribe and religion were the main forces shaping loyalties and political participation, even under the strict order of the Jamahiriya.

Regionalism again was fuelling tensions against the regime, particularly in the eastern region. Benghazi and its neighbouring towns were economically deprived and, politically, the most oppressed under Gadhafi. The regime's neglect infrastructure and social services in Benghazi was a purposeful strategy to impoverish and weaken these areas. Fearing loyalists to the Sanussi order, Gadhafi paid close attention to potential dissidence and uprisings in the East by employing strict measures against families associated with Islamic groups and student movements sceptical of the regime.[102] A scandal in 1996 over the infection of 413 children with HIV/AIDS in Benghazi led to a culmination of anger among citizens in the Eastern region who felt it might have taken place on the orders of the regime.[103] Another blow to the regime's popularity came from an event on 28 June 1996 when, following prison riots, 1,270 men were massacred in Abu Slim prison.[104] There is not sufficient information about the detainees but their arrests during the 1990s does suggest that the regime accused them of being affiliated to the Muslim Brotherhood and to the LIFG.[105] At the time, even being considered to have "offended" the regime was enough to get some young men detained in Abu Slim.

At the level of foreign policy, in an attempt to increase his standing in the world, after the death of the Arab Nationalist dream, Gadhafi in the 1980s and 1990s was supporting terrorist organisations worldwide and the country had earned itself economic sanctions and political isolation from the international community. At this time, Libya's foreign policy indicated Gadhafi's attempt to diminish internal opposition to the regime by increasing external opposition to the West, and the US in particular. The regime sought to appear to share Libyans' suspicion of outside interference by sponsoring anti-Western terrorism activities.[106] The foremost of this was Libya's sponsorship of the bombing of Pan Am Flight 103, in 1988, that exploded over Lockerbie, in Scotland, killing 259 passengers and crew and 11 residents of the town.[107] Accusations were made against two state-sponsored Libyan nationals and the subsequent social and economic sanctions by the UN Security Council on Libya for promoting international terrorism further isolated the regime.[108]

The end of the 1990s brought the first signals that the regime was willing to make changes to avoid growing domestic unrest and alleviate the economic difficulties caused by the sanctions. Gadhafi could no longer ignore the potential unrest that came from worsening socioeconomic conditions and from isolation from the international community. Socioeconomic sanctions diminished the regime's ability to co-opt tribes and the purposeful strategy to withhold financial

support to the East were both making Gadhafi less and less popular. This third phase was marked by a change in foreign policy through a rapprochement with the US and Europe at the start of the 2000s sparked by Gadhafi realising he was lacking popularity and capability inside Libya and also with the international community.[109] After denouncing terrorism, the regime sought to restore its standing in the international community, notably, in 2003, by providing reparations to the families of individuals murdered in the bombing of Pan Am Flight 103 over Lockerbie.[110] The UN Security Council voted on 12 September 2003 to lift its 11-year regime of economic sanctions and the arms embargo that had been in place for 18 years.[111]

This third period of the regime corresponds with Gadhafi's rapprochement with the West, and increasing economic liberalisation in the country illustrates attempts at reform from within the regime.[112] Gadhafi's eldest son (from his second marriage), Saif al-Islam, began to gain prominence at this juncture. Saif's image represented a younger face that believed in free market economics and was educated in Austria and the UK. Saif had already established and headed the Gadhafi International Foundation for Charitable Associations, which worked since 1996 to provide humanitarian assistance across Libya.[113] This enabled him to play a key political and economic role in the country as he claimed to represent "civil society" in Libya. This "civil society" was largely defined by Saif himself. It was Saif appearing on all media outlets and claiming to represent the people's demands for reform.[114] Since there were no recognised civic organisations, Saif was able to monopolise the debate. In practice, the regime did not formally recognise civil society organisations outside the sphere that Saif had delimited. In this way, the regime constructed a Libyan civil society around a succession project that would facilitate Saif's accession to power. However, the social order, dominated largely by tribal loyalties as well as by Islamic groups, proved impossible for Saif to subdue. His efforts were mainly a "media stunt"; an attempt to appear liberal and in control when in fact Libyan opposition movements continued to be on the rise.

In 2004, rapprochement with Europe and the US lead to the lifting of bans on imports, exports and bank loans.[115] The year 2004 was also notable for Saif's creation of a committee to work with international experts to draft a new constitution. Their efforts produced a draft charter of 152 articles (which would later be leaked to the press) but actual constitutional reform never took place.[116] The declared intent of the regime to write a new constitution suggests that Gadhafi was aware of the need to change the system in order to accommodate discontent. Saif also announced his intention to reform the media and liberalise the economy.[117] His liberalising efforts between 2006 and 2010 ensured that a number of media outlets were allowed to operate and, for the first time, could broadcast talk shows discussing political issues and corruption.[118] However, because of the weakness of state institutions and lack of private sector experience, the regime could not liberalise the economy. Gadhafi's institutional set up allowed him to direct resources, services and benefits to a small group of his

supporters and to keep such benefits away from his potential opponents. Although the 2000s witnessed a partial liberalisation of the public sphere, the new constitution did not see the light of day and activists continued to be subjected to torture and repression.[119]

While Saif al-Islam grew prominent through his leadership of the Gadhafi International Foundation for Charity, the underlying repression of political activism remained in place.[120] The tensions between this tentative liberalisation process, aimed at the international community, and very strict internal control was evident in the protests that broke out in 2006, predominantly against the cartoons of the Prophet Mohammad released by a Danish media outlet, but they also openly included anti-regime slogans.[121] The lack of meaningful reform made Libyans increasingly frustrated at the anomaly of a state that had such significant oil income yet was unable to address many basic needs of its population. The reform project of Gadhafi's son Saif did allow some space for Libyan intellectuals and diaspora to at least discuss the possibility of change from within the regime. One of the most significant movements that grew out of the period of regime tolerance to civil associations was the "truth seeking" committee that was set up in 2009 and headed by Fethi Terbil, a lawyer, who had lost his brother, cousin and brother-in-law in the Abu Slim massacre.[122] Emboldened by Saif al-Islam's reformist rhetoric, in 2009 the victims' families demanded, through peaceful protest that the regime provide them with an account of how their loved ones had died. The demonstrators were fewer than 30 people and held protests every Saturday for years in Benghazi despite threats of arrest and despite the government's offer of money in compensation for their loss. These movements were very new and bold in the Libyan context, as the mere mention of abuses committed by the government was enough to have had others killed.

The 42 years under Gadhafi brought out stark contrasts in the meanings of revolution, regionalism and Libyan identity. On the one hand, Gadhafi sought to use these notions to strengthen his rule but, on the other, his policies exacerbated the appeal of these notions to fuel discontent against his regime. The *thawra* quickly turned into an autocracy and attempts at unification only led to greater *jihawiya*. Gadhafi had to use "power-sharing" mechanisms by formally recognising and working with tribes to foster loyalty to his regime. His "un-sharing" of power was by oppressing Islamic authorities and Islamist groups. But unlike the Lebanese case after the civil war, the regime did not really grant representation for groups outside of a rather narrow ruling elite. Gadhafi's enmity with the Muslim Brotherhood reinforced Islam as an opposition discourse and unifying identity. Lastly, Gadhafi's system, nominally based on the participation of the masses, completely outlawed political and civic organisations. This marginalisation of civil society completely de-politicised the public sphere and created apathy among the masses. They harboured discontent, but could do little about it. The critical juncture created by his revolution only reinforced path dependence in the form of revolutionary sentiment, regional inequalities, and Islamic and ethical ideals.

5.6 Preamble to the 2011 Libyan uprising

The 2011 Libyan uprisings revealed how many internal enemies Gadhafi had made over the years, as the revolution united the ethnic minorities that he had marginalised, the Islamic groups that he had repressed, the intellectuals that he had banished, the activists that he had persecuted, and many other groups. Many of the protestors from the city of Benghazi where the uprisings erupted noted that, initially, these protest movements were not particularly anti-regime or anti-Gadhafi, but that the brutality with which the regime responded united Libyans against him.[123] This section presents some of the characteristics of this revolution and the three key changes it brought to political life in Libya. The uprising reignited revolutionary rhetoric, which typically destabilises and weakens public authorities.

Whilst other autocratic regimes had opened up spaces for public engagement and recognised new political freedoms in the 2000s, Libya had remained extremely repressive. Hence, the main actors in the 2011 uprising were not political parties and civic groups (as was the case in Lebanon's uprising for example), but local self-help groups, charities, families, private entrepreneurs and diaspora members.[124] Terbil, the head of the truth seeking commission that was set up in 2009, explains that the issue became a personal matter, the revolutionaries were set against Gadhafi as hundreds of families had felt outraged and targeted by the regime.[125] Terbil, alongside a group of young Libyans, had been in the process of organising "A Day of Rage" planned for 17 February. This day was to comprise a mass demonstration in which Libyans would take to the streets to call for reforms, including the introduction of a new constitution. These preparations were directly linked to the semi-liberalised political space that Saif had created through his pro-reform activities. On 15 February 2011, seven cars from the General Security Directorate drew up outside the modest house of Fethi Terbil to arrest him. The planned "Day of Rage" was not insignificant: it was on 17 February 2006 that 14 Libyans had been killed when popular protests broke out in Benghazi against the cartoons depicting the Prophet Mohammad.

With images of the "Arab Spring" on television and the activists' belief that the regime would not respond so violently, Terbil and others went ahead and planned a symbolic protest.[126] As news of Terbil's detention reverberated through Benghazi, the families he was representing began gathering at the gate of the General Security Directorate in Benghazi, demanding his release, and they were joined by lawyers and other professionals, who added their voices. In this context, the mobilisation for the planned Day of Rage was de facto starting two days early. To make matters worse, these initial protests were soon reported in the international media. Activists desperately reached out to the world to come and protect them from the regime's brutality. Despite the release of Terbil, on 17 February demonstrations erupted at various locations across the city, while the lawyers and families of the Abu Slim massacre began a full-blown protest in front of the Benghazi courthouse, where other demonstrators soon joined them.[127] The emerging movement against Gadhafi was accompanied by a change

in the foreign policies of the US and European states. A long-standing enemy to the West and sponsor of terrorism, Gadhafi's regime appeared weakened by the protest movements against him and by the violence of the regime. The international community saw an opportunity to get rid of Libya's "eccentric" ruler and initiated a UN Security Council resolution against Gadhafi, referring him to the International Criminal Court.[128]

The events that followed exhibited a pattern of repression-fuelled defiance. The conflict intensified after international actors joined the fray and authorised the use of military action – including against tanks and heavy artillery on the ground – in order to protect civilians. On 19 March, two days after the UN Security Council voted to impose a no-fly zone, the attacks began. Much like with the ousting of the Syrians from Lebanon, this enabling international and regional environment coincided with local demands by Libyans, especially in the Eastern region. The militarisation of the conflict, however, should not overshadow the massive unarmed insurrections that broke out in neighbourhoods across the country. The initial uprising was non-violent and spread across the country in a matter of days, indicating an underlying and deeply entrenched resentment and opposition to the regime.[129] The National Transitional Council (NTC) was formed late in February, was officially announced on 5 March 2011, and was comprised of self-appointed defectors, exiles and intellectuals who declared that the NTC would work to ensure elections took place.[130] By July, the international community had officially recognised the NTC. Militarily, the final turn of events took place in August when armed insurgents took over Gadhafi's compound in Tripoli. Gadhafi died in the battle for Sirte on 20 October 2011.

In parallel to the military events and the formation of the NTC as a new political institution, changes were happening in the social and civic spheres. Libyans were suddenly able to speak up. Women activists who had been stigmatised for many years, and who were linked to Gadhafi's bodyguards, were now playing a role in supporting the revolution and in mobilising the youth.[131] Civil society organisations that had been almost completely absent, except for Saif's Charity and a few associations for the disabled, were now flourishing.[132] The majority of these efforts during the revolution went to humanitarian assistance, support for the fighters, and neighbourhood initiatives to guard the streets.[133] This early mobilisation of activists laid the foundation for the emergence of thousands of civic organisations after the end of the armed insurrection against the regime.

The personalised rule of Gadhafi for the 42 years of the regime made it possible for of activists from diverse backgrounds to unite against him. His subsequent threats to cleanse the streets one by one (*zanga zanga*) and get rid of the "rats" (protestors) further fuelled anti-Gadhafi hatred. An intellectual and activist in the uprising from the London diaspora declared that "it was easy to hate him, every house, every family had a son who was either kidnapped, imprisoned or killed in those 42 years and so when the time came, every family could unite for one thing: we wanted him out".[134] But with the demobilisation of the mass uprising and when the military confrontation came to a halt, the period of transition

was characterised by an array of often contradictory demands. Transition to democratisation would effectively require solid political reforms that the new state elite was incapable of spearheading.

Libyans called for freedom and liberation, but decades of de-institutionalisation meant that there was no strong structure of governance that could provide the required services to citizens or that could strengthen a process of political consensus building. The attempts at developing a new constitution for Libya highlight both elements of change and of continuity in the political order in the polity. The constitutional case study in the next chapter will shed light on the political dynamics after the uprising and how weak state institutions, power-sharing agreements, and ineffective civil society actors posed constraints on the development of a new political order between 2011 and 2013. To a large extent, the Libyan uprising can be credited to the efforts of domestic actors. In part it was due to changing foreign policies, but it was also the result of the mistakes and failed promises of a populist regime that nurtured hatred and resentment for decades. The combination of these factors marked a significant juncture for Libya. Yet without an enabling environment for civic activism and reform, this juncture would be only partially critical for the country.

Notes

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2 Luis Martinez, "Libya: The Conversion of a Terrorist State", *Mediterranean Politics* 11, no. 2 (2006): 151–165, at p. 152.
3 See for instance Ethan Daniel Chorin, *Exit the Colonel: The Hidden History of the Libyan Revolution* (New York: Public Affairs, 2012).
4 Regarding the use of this term in Libya see Youssef Mohammad Sawani, "Post-Qadhafi Libya: Interactive Dynamics and the Political Future", *Contemporary Arab Affairs* 5, no. 1 (2012): 5. As for the reference to the term for the case of Lebanon see Fiona McCallum, "The Role of the Maronite Patriarch in Lebanese History", 924.
5 See for instance Larbi Sadiki, "Wither Arab 'Republicanism?' The Rise of Family Rule and the 'End of Democratization' in Egypt, Libya and Yemen". *Mediterranean Politics* 15, no. 1 (2010): 99–107.
6 Hala Khamis Nassar and Marco Boggero, "Omar al-Mukhtar: The Formation of Cultural Memory and the Case of the Militant Group that Bears His Name", *The Journal of North African Studies* 13, no. 2 (2008): 201–217, at p. 202.
7 Carole Collins, "Imperialism and Revolution in Libya", *MERIP Reports* 27, (1974): 3–22, at p. 15.
8 Collins, "Imperialism and Revolution", 17.
9 John Davis, *Libyan Politics: Tribe and Revolution: An Account of the Zuwaya and their Government* (Berkeley: University of California Press, 1988), 25.
10 Davis, *Libyan Politics: Tribe and Revolution*, 25.
11 See an early account of this in Ragaei El Mallakh, "Affluence versus Development: Libya", *The World Today* 24, no. 11 (1968): 475–482.
12 See more on the economic and social policies in Libya after independence in Dirk A. Vandewalle, *A History of Modern Libya*, pp. 45–50 (London: Cambridge University Press, 2012).

13 King Idriss' legitimacy was very weak outside of the Benghazi in the Eastern region and Gadhafi's strategy as early as 1973 was to economically deprive the East and socially fragment possible opposition from clerics and tribal leaders and dislodging the elites who had been loyal to the Monarchy. Vandewalle, *A History of Modern Libya*, 76–80.

14 Youssef Mohammad Sawani and Jason Pack, "Libyan Constitutionality and Sovereignty Post-Gadhafi: The Islamist, Regionalist and Amazigh Challenges", *The Journal of North African Studies* 18, no. 4 (2013): 523.

15 Sawani and Pack, "Libyan Constitutionality and Sovereignty Post-Gadhafi: The Islamist, Regionalist and Amazigh Challenges", 525.

16 George Joffe, "Islamic opposition in Libya", *Third World Quarterly* 10, no. 2 (1988): 615–631, at p. 621.

17 Lisa Anderson, "Religion and the State in Libya: The Politics of Identity". *Annals of the American Academy of Political and Social Science* 14, (1986): 61–72

18 Gadhafi had outlawed polygamy, a marital practice that Islam allows, see Elizabeth Ann Mayer, "Building the New Libya: Lessons to Learn and Unlearn", *Journal of International Law* 34, no. 2 (2013): 365–387, at p. 375.

19 Wolfram Lacher, "Families, Tribes and Cities in the Libyan Revolution", *Middle East Policy* 18, no. 4 (2011): 140–154, at p. 153.

20 Ronald Bruce St. John, "Post Gadhafi Libya", in *Multiculturalism and Democracy in North Africa: Aftermath of the Arab Spring*. Edited by Mona Ennaji (New York: Routledge, 2014), 279.

21 Stephen Kurczy and Drew Hinshaw, "Libya Tribes: Who's Who?" *Christian Science Monitor* (2011), www.csmonitor.com/World/Backchannels/2011/0224/Libya-tribes-Who-s-who, (accessed 10 June 2014).

22 Kurczy and Hinshaw, "Libya Tribes: Who's Who?".

23 Lacher, "Families, Tribes and Cities in the Libyan Revolution", 145.

24 Ibid., 142.

25 Around 4,000 Tabu are reported to live in the town of Kufra which has a total population of 44,000. Summary of Stakeholders' submissions to the Universal Periodic Review of Libyan Arab Jamahiriya, A/HRW/WG.6/9/LBY/3, 15 July 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LY/A_HRC_WG.6_9_LBY_3_Libya.pdf (accessed 12 June 2014).

26 Golino, "Patterns of Libyan National Identity", 345.

27 See Laura Van Waas, "The Stateless Tabu of Libya?" Statelessness Program, Tulburgh Law School and Open Society Foundation, (2013), www.refworld.org/pdfid/52aace474.pdf (accessed 15 June 2014).

28 Republic of Libya, Constitution of 1951, articles 11 and 15.

29 Joffe, "Minorities in the New Libya", 294.

30 Aisha Al Rumi, "Libyan Berbers Struggle to assert their Identity Online", *Arab Media and Society*, Feature Article (2009): 1–8, at p. 2.

31 AFRICA, BBC News, "Ex-Gaddafi Tuareg Fighters Boost Mali Rebels", *BBC News*, 17 October 2011, www.bbc.co.uk/news/world-africa-15334088, (accessed 10 June 2014).

32 They also suffer now from the most violence and oppression as revolutionary groups in neighbouring Misurata have displaced them entirely and they now live in camps. See Elvin Aghayev, "Analysis and Background of the Arab Spring", *European Researcher* 39, no. 1–2 (2012): 193–198, at p. 195.

33 Vandewalle, *A History of Modern Libya*, 11–15.

34 Ibid., 15.

35 See Golino, "Patterns of Libyan National Identity", 325–348, at p. 347.

36 See ibid., 347 and Anderson, "Nineteenth-Century Reform in Ottoman Libya", 346.

37 Vandewalle, *A History of Modern Libya*, 24–42.

38 Ibid.

39 Nicholas Hagger, *The Libyan Revolution: Its Origins and Legacy, A Memoir and Assessment* (London: John Hunt Publishing, 2009), 9.

40 Ibid.

41 Vandewalle, *A History of Modern Libya*, 45–50.

42 It is notable that his picture was used by the young revolutionaries during the February 2011 uprising with the slogan of "We Triumph or We Die". See Nassar and Boggero, "Omar Al-Mukhtar: The Formation of Cultural Memory", 201–207.

43 Benjamin Rivlin, "Unity and Nationalism in Libya", *Middle East Journal* 13, no. 1 (1949): 31–44.

44 Anderson, "Nineteenth-Century Reform in Ottoman Libya", 346.

45 Rivlin, "Unity and Nationalism in Libya", 39.

46 Vandewalle, *A History of Modern Libya*, 24–42.

47 See Anna Baldinetti, "Libya's Refugees, their Places of Exile and the Shaping of their National Idea", *The Journal of North African Studies* 8, no. 1 (2003): 72–86.

48 See Omar, "Libya: Legacy of Dictatorship", 70.

49 Alison Pargeter, *Libya: The Rise and Fall of Gadhafi* (New Haven: Yale University Press, 2012), 33.

50 Stephen Blackwell, "Saving the King: Anglo-American Strategy and British Counter Subversion Operations in Libya, 1953–59", *Middle Eastern Studies* 39, no. 1 (2003): 1–19, at p. 3.

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52 Omar Fathaly and Monte Palmer, "Opposition to Change in Rural Libya", *International Journal of Middle East Studies* 11, no. 2 (1980): 248.

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54 See Ismail Raghib Khalidi, "Constitution of the United Kingdom of Libya: Background and Summary", *The Middle East Journal* 6, no. 2 (1952): 221–228.

55 Pargeter, *Libya: The Rise and Fall of Gadhafi*, 34.

56 Abdelkader Kaddoura, constitutional and legal expert, interview with author, Tripoli, January 2013.

57 Mohammad Berween, "*Men Ajl Istiaadat al Shariia al Dostooriya fi Libya*". [Towards Regaining Constitutional Legitimacy in Libya]. Paper presented at the Libya-American Forum for Freedom, Washington DC 2006.

58 Abdel-Kader Kaddoura, Libyan constitutional expert, interview with author, Tripoli, 19 January 2013.

59 Vandewalle, *A History of Modern Libya*, 45.

60 There were more than 13,000 Jews in addition to few hundred Christians and Greeks residing in Libya, see Ismail Raghib Khalidi, *Constitutional development in Libya* (Beirut: Khayat's College Book Cooperative, 1956).

61 Mohammad Berween, statement at Forum for Democratic Libya launch of dialogue project, Tripoli, 22 January 2013, author participant observation.

62 Berween, "Towards Regaining Constitutional Legitimacy in Libya".

63 A blatant disregard for the complex Joseph B. Schechtman, "Decline of the International Protection of Minority Rights", *The Western Political Quarterly* 4, no. (1951): 1–11, at p. 9.

64 St. John, "Post Gadhafi Libya", 279.

65 Vandewalle, *A History of Modern Libya*, 45.

66 Mustafa Ben Halim, *Libya Safahat Matwiya Men Al Tareekh Al Siyasi* [Libya: Hidden Pages of Political History] (Dubai: Rimal Publishers, 2012).

67 Vandewalle, *A History of Modern Libya*, 45.

68 Golino, "Patterns of Libyan National Identity", 347.

69 Although government revenue from petroleum rose from $40 million in 1962 to $800 million by 1968 this affluence did not often translate into a better standard of living for Libyans. See El Mallakh, "Affluence versus Development: Libya", 480.

70 See for instance Fathaly and Palmer, "Opposition to Change in Rural Libya", 242.

71 Lisa Anderson, "Libya and American Foreign Policy", *Middle East Journal* 36, no. 4 (1982): 519.

72 Ali Abdullatif Ahmida, "Libya, the Social Origins of Dictatorship and the Challenge for Democracy", *The Journal of Middle East and Africa* 30, no. 1 (2012): 70–81, at p. 73.

73 Sami Hajjar, "The Jamahiriya Experiment in Libya: Qadhafi and Rousseau", *The Journal of Modern African Studies* 18, no. 2 (1980): 181–200, p. 184.

74 Anderson, "Libya and American Foreign Policy", 520.

75 The Amazigh in particular felt their culture most threatened by this declaration. See Al Rumi, "Libyan Berbers Struggle".

76 Zoubir and Rozsa, "The End of the Libyan Dictatorship", 1268.

77 Bruce St. John, "Redefining the Libyan Revolution: The Changing Ideology of Muammar Al-Qaddafi", *The Journal of North African Studies* 13, no. 1 (2008): 93.

78 Joffe, "Islamic Opposition in Libya", 630.

79 Vandewalle, *A History of Modern Libya*, 81.

80 Ibid.

81 Ibid.

82 Hagger, *The Libyan Revolution: Its Origins and Legacy*, 144.

83 The deviants were blatantly described as the communists, capitalists, Muslim brotherhood. See for example Hajjar, "The Jamahiriya Experiment in Libya: Qadhafi and Rousseau", 84–85.

84 Vandewalle, *A History of Modern Libya*, 83.

85 See Hein De Haas, "North-African Migration Systems: Evolution, Transformations and Development Linkages", *International Migration Institute* 6 (2007): 5–6.

86 Hajjar, "The Jamahiriya Experiment in Libya", 83–84.

87 This achieves direct democracy in an orderly and effective form. It is superior to the older attempts at direct democracy which were impractical because they lacked popular organisations at base levels. See "The Green Book", 22, unofficial English translation.

88 Ibid.

89 Obeidi, *Political Culture in Libya*, 49.

90 See Ben Halim, *Libya: Hidden Pages of Political History*.

91 Al Rumi, "Libyan Berbers Struggle", 4.

92 See De Haas, *North African Migration Systems.*

93 Hajjar, "The Jamahiriya Experiment in Libya", 180.

94 Ahmida, "Libya, the Social Origins of Dictatorship", 76.

95 Joffe, "Islamic Opposition in Libya", 615–631.

96 Speaking on the period of 1980s, now, Member of the General National Congress with Muslim Brotherhood, former political prisoner of 15 years, interview with author, Tripoli January 2013.

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98 Gary Gambill, "The Islamic Fighting Group (LIFG)". *Terrorism Monitor*, 5 May 2005, citing *Al-Hayat* (London), 20 October 1995 ["communiqué"]; www.jamestown.org/single/?tx_ttnews%5Btt_news%5D=308#.U72HHvmSyAU (accessed 6 July 2014).

99 A decade later, LIFG announced its merger with Al-Qaeda in Afghanistan, see Jean-Pierre Filiu, "The Local and Global Jihad of al-Qa'ida in the Islamic Maghrib", *The Middle East Journal* 63, no. 2 (2009): 213–226.

100 See Tannous Moawad, "The Middle East and North Africa", in *Military Engagement: Influencing Armed Forces Worldwide to Support Democratic Transition.* Edited by Dennis Blair (Washington, DC: Brookings Institution, 2013).

101 George Joffe, "The Arab Spring in North Africa: Origins and Prospects", *The Journal of North African Studies* 16, no. 4 (2011): 507–532, at p. 522.

102 Ahmida, "Libya, the Social Origins of Dictatorship", 80.

103 See Kimberly L. Sullivan, *Muammar al-Qaddafi's Libya* (Minneapolis: Twenty First Century Books, 2008), 112–123.

104 Lindsey Hilsum, *Sandstorm: Libya in the Time of Revolution* (New York: Penguin Press, 2012), 60–75.

105 Member of the General National Congress with Muslim Brotherhood, former political prisoner of 15 years, interview with author, Tripoli January 2013. Word about the massacre did not come out until a decade later but would prove to be the trigger of the revolution that caused Gadhafi's ousting.

106 Anderson, "Libya and American Foreign Policy".

107 Fiona Beveridge, "The Lockerbie Affair", *The International and Comparative Law Quarterly* 41, no. 4 (1992): 907–920.

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109 Yahya H. Zoubir, "Libya in US foreign Policy: From Rogue State to Good Fellow?" *Third World Quarterly* 23, no. 1 (2002): 31–53.

110 Martinez, "Libya: The Conversion of a Terrorist State", 155.

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112 Ibid., 444.

113 Alison Pargeter, "Libya: Reforming the Impossible?" *Review of African Political Economy* 33, no. 108 (2006): 222.

114 See for example Sullivan, *Muammar al-Qaddafi's Libya*, 123.

115 In mid-November 2004, President Bush asked Congress to lift the US ban on export and import bank loans to Libya, arguing that action was very important to facilitate US investment. See Haizam Amirah Fernandez, "Libya's Return: Between Change and Continuity", *Real Instituto Elcano de Estudios Internacionales y Estratégicos* (2006): 1–7.

116 Bruce St. John, "The Slow Pace of Reform Clouds the Libyan Succession", *Análisis del Real Instituto Elcano (ARI)* 45 (2010): 1–7.

117 See for instance Sullivan, *Muammar al-Qaddafi's Libya*, 124–125.

118 Anja Wollenberg and Jason Pack, "Rebels with Pens: Observations on the Newly Emerging Media Landscape in Libya", *The Journal of North African Studies* 18, no. 2 (2013): 191–210, at p. 194.

119 See how Saif interacted with international human rights NGOs in Gerald M. Steinbergh, "International NGOs, the Arab Upheaval and Human Rights", *Northwestern Journal of International Human Rights* 11, no. 1 (2012): 124–149. But, for example, in 2008 over 300 members of revolutionary committees attacked an Amazigh activist and threatened the local community in Yefren with destruction and death. See Al Rumi, "Libyan Berbers Struggle", 2.

120 Billingsley, *Political Succession in the Arab World*, 183–184.

121 Pargeter, "Libya: Reforming the Impossible?", 229.

122 Statement by Fethi Terbol (Minister of Youth with National Transitional Council) on his own experience with the revolution during a meeting with activists, attended by author, Tripoli, February 2012.

123 Lamia Abu Sedra, member of the Humanitarian Relief Coordination platform in Benghazi and later Director of the Centre for Civil Society, interview with author, Tripoli, February 2012.

124 Confidential, Misurata Chamber of Commerce member, interview with author, Misurata, February 2012.

125 Statement by Fethi Terbil (Minister of Youth with National Transitional Council) on his own experience with the revolution during a meeting with activists, attended by author, Tripoli February 2012.

126 Statement by Fethi Terbil (Minister of Youth with National Transitional Council) on his own experience with the revolution during a meeting with activists, attended by author, Tripoli, February 2012.

127 Pargeter, *Libya: The Rise and Fall of Gadhafi*, 221.

128 Caitlin A. Buckley, "Learning from Libya, Acting in Syria", *Journal of Strategic Security* 5, no. 2 (2012): 81–104, at pp. 81–83.

129 Joffe, "The Arab Spring in North Africa", 529.

130 National Transitional Council, Libya www.ntclibya.org/english/about, (accessed 15 May 2014).

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132 Lamia Abu Sedra, member of the Humanitarian Relief Coordination platform in Benghazi and later Director of the Centre for Civil Society, interview with author, Tripoli, February 2012.

133 Activists in Misurata, focus group conducted by author, Misurata, February 2012.

134 Faraj Najem, Director of the Africa Research Centre in Tripoli, interview with author, Tripoli, February 2012.

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6 Libya's activists' struggle for a new constitution

I have been shocked three times in my life: the day my father was released from prison, the day Gadhafi was killed, and the day I lamented the Gadhafi regime.
Participant in a workshop on active citizenship, Tripoli August 2013[1]

6.1 Introduction

Libyans will remember the year 2011 as a year of radical change. It was the year where resentment against the regime became insurmountable and, with support from foreign troops, the end of Gadhafi's rule became a reality. Gadhafi's procrastination or disregard for meaningful reforms to the Libyan state in the 2000s paved the way for the demise of his regime and the termination of his populist thawra. On 20 October 2011, Gadhafi was killed by rebel fighters, who at the time were being supported by NATO forces. The brutality of the leader's death showed the extent of the hatred Libyans felt towards all that Gadhafi represented. A rebel fighter commented that, "the world might have looked disgustingly at images of his body dragged down the streets, but for us in Misurata the day he [Gadhafi] was finally captured and killed was like a wedding celebration. We felt liberated from the depths of our souls".[2] For decades, Gadhafi had either knowingly or unknowingly deluded himself, believing he was popular, but this was proven otherwise.

The end of the regime signalled a transitional period that would bring fresh challenges for the Libyan people. Gadhafi's grip over power and his patronage of loyal families and tribes made political succession very difficult. His centralisation of power and authority stifled the rise of political leaders who could potentially fill the role of statesmen. The challenges of the transition phase, studied here as the period between 2011 and the end of 2013, emanated from the absence of an established and participatory political space to cope with regionalism, tribalism, Islamism and governance. There had not been any inclusive political processes to address marginalisation, regional differences, and mistrust among Libyans and between Libyans and state institutions. Whilst the most recent thawra has dispersed power and authority among several groups, Libya's formal state institutions were still too weak address differences and manage this diversity. As a result, the 2011 juncture was only partially critical, as the transitional period was characterised by path dependence and past practices. In particular, the results of the constitutional debates presented in this chapter display strong links to past tensions and conflict as well as to old practices.

The 2011 uprisings in Libya were supported by many ordinary citizens. Like other mass mobilisation moments, these uprisings saw the involvement of citizens and groups that would not otherwise be so engaged in politics. Libyans had not been able to engage in the public sphere, much less in the political process, for decades. Now thousands could take the streets and even join the armed insurgency against the regime.[3] This process of mobilisation continued in different shapes after the mass anti-Gadhafi uprising had ended. Although militant groups and armed rebels had not yet disarmed and order had not been restored, after the killing of Gadhafi Libya entered a transitional period where institutions were starting to be rebuilt and political reform partially took off. Foremost among these reforms was the launching of a process to develop a new constitution for Libya. Understanding how citizens engaged in this process and how the political institutions responded to citizens and civic organisations can help us to understand how elements of continuity have persisted and have made the reform process highly challenging. The main assumption in assessing this process is that for the uprising to be considered a critical juncture, the new constitutional order would have to be both inclusive and responsive to citizens needs in order to legitimise the new state system.

The actors in the 2011 revolution organised themselves into political movements and civic organisations after the uprising. Among these were the youth movements of 17 February, comprising urban youth who were highly active on social media and in the protests. Armed forces and rebel fighters ranged from defectors from the military, to local militias, to Islamist and jihadi groups who joined the fight against the regime. Another set of newcomers in the revolution who were also pursuing their own agenda were the civil society organisations within Libya and among the diaspora. The evolution of this last set of social actors highlights some key elements of continuity in how weak state institutions and emerging power-sharing agreements impose constraints on the establishment of a new constitutional order.

This chapter explores the debates about the new constitution during Libya's early transition. This period corresponds to the time between the issuing of the National Transitional Council's (NTC) constitutional declaration in August 2011 and the proclamation of Law 13/2013 determining the electoral framework for the Constitutional Drafting Assembly (CDA) in October 2013. The chapter has two main objectives. First, it highlights how the challenges of political reform in the post-uprising phase were shaped by: (i) the weakness of central state institutions and (ii) the emergence of a power-sharing agreement. Second, the chapter appraises the role that civic organisations played in the constitutional process by studying the case of the Forum for Democratic Libya (FDL), a non-governmental organisation that led a national constitutional dialogue initiative between February 2012 and May 2013.

The chapter comprises five parts. After the Introduction, it explains how the transitional period opened up Libya's "Pandora's Box", revealing multiple social and political struggles that had been contained for decades. In doing so it explores how the constitutional process became the central battlefield for political reform. The third section sheds light on the emergence of a multitude of civil society organisations during the transition. In the fourth section, I present empirical findings from a series of constitutional dialogues that FDL organised across Libya and analyse their implications for the development of a new constitutional order in Libya. Finally, I conclude with an assessment of the constraints on political reform and the limitations of civic activism, which contributed to making the 2011 uprisings only partially critical for Libya.

6.2　Opening up Pandora's Box: power-sharing in disguise

Gadhafi's regime, much like other autocratic regimes, forcefully controlled a dynamic and differentiated socio-political fabric for decades. Gadhafi even imposed the colour green on Libya's public spaces and commercial hubs.[4] It is not surprising therefore that his demise would signal an opening up of a multitude of demands, identities, grievances, agendas and groups. The differences in opinion among those who joined the revolution appeared mild at first, as they all shared the same purpose: toppling Gadhafi's regime. But as soon as the revolution subsided, these groups realised that they had very little in common. Whilst this is far from surprising, the challenge for the new elites resided in institutionalising the revolutionary demands for freedom and democracy. The historical construction of revolutionary rhetoric, regionalism, and Islamism are some of the factors that constrained reform during the transition. A new power-sharing formula was also emerging, signalling a potential break from the previous centralisation of power among one political elite, chosen by Gadhafi. But power-sharing, with the veto powers it introduced, was also a major constraint on national reform and on the role of the nascent civil society organisations.

The National Transitional Council (NTC) was formed early on in the uprising of 27 February 2011 and by early March proclaimed itself the representative of the Libyan people.[5] The NTC members included representatives from the main tribes in an effort to win the support of Libyans across the country. It also included key figures that defected from Gadhafi's regime including NTC head Mustapha Abdul Jalil (Gadhafi's former Minister of Justice).[6] The NTC acted as the political arm of the revolution and gained international recognition shortly thereafter. It operated alongside the "military" arm (or *thuwar*, meaning revolutionaries) that was made up of former LIFG operatives, tribal groups, military defectors, ordinary citizens and youth who joined battalions across Libya.[7] The NTC as an interim transitional entity had a complicated relationship with the armed fighters. Since the NTC did not have a monopoly over force and could not enforce many of its decisions, the transitional period turned Libya into a stateless society without a working state structure, but with a political order maintained by numerous armed groups at the local level. The formation of the NTC

also shows elements of continuity from Gadhafi's regime, such as the marginalisation of some ethnic groups, disagreement over the role of Islam, the prominence of tribes in politics, and the anarchic management of the country's natural resources.

When Tripoli was captured and "liberated" in August 2011, the mood was characterised by euphoria and widespread support for the *thuwar* (revolutionaries).[8] Shortly thereafter, the assassination of the Defence Minister of the NTC, Adul-Fattah Younes, signalled that many revolutionaries refused to make compromises with the old guard.[9] NTC political leaders were afraid to take measures that could upset armed militias and effectively acted as a mere caretaker government.[10] Gradually, the NTC asked the main brigades to keep peace and stability in Tripoli. The public bureaucracy that the NTC inherited from Gadhafi lacked the technical and institutional capacity to implement many reconstruction, developmental, or economic policies. In Tripoli as well as the Eastern and Southern parts of the country, law and order were kept in the hands of militias who referred to themselves as the revolutionaries. In February 2012, I visited Misurata and there were no local policy forces but instead young militia men were keeping a watchful eye on streets and residents. They were saluted as heroes by the locals and 16-year-olds were revered by 70-year-olds passing by. The NTC was dealing with the aftermath not of a mere uprising, but of civil war with thousands of people displaced, over 20,000 killed, and an entire infrastructure that was often badly damaged.[11] The weak capabilities of the NTC played into the interest of armed militias who could put forward their agenda and make political demands during the transition.

At the same time, a weak NTC could not meet the demands of the new civic and political associations that were calling for political reforms after the uprisings. The NTC had set three main tasks for itself: to provide official representation for the 17 February uprising, to appoint a constituent drafting assembly to draft a constitution, and to organise democratic parliamentary elections.[12] The NTC recognised that as an unelected entity they were not suited to drafting Libya's new constitution, although they did lay down the rules of the game by which the constitution should be formed. On 3 August 2011, the NTC put forward Libya's Constitutional Declaration, which was intended to remain in effect until a new constitution was enacted. The constitutional declaration stated that the prerogatives of the NTC would include the design of a new electoral law for Libya's National Assembly, the appointment of a Higher Commission for National Elections, and the calling of the elections to a National Congress/Assembly. Following the declaration, Mustafa Abdul-Jalil, head of the NTC, announced on 23 October 2011 that the Shari'a would be the source of legislation for marriage and family laws in an early sign of the NTC's intent to appease Islamic groups.[13]

This elected Congress would then assume the responsibility to appoint, within 30 days, a new transitional government, a constitutional drafting body that in turn was required to submit a constitutional draft within 60 days of its appointment.[14] The declaration also stated that a referendum on the constitution would

be held that would require the votes of two-thirds of eligible voters. The declaration itself marked a departure and a critical juncture from past practices as no referendum had taken place in the two previous constitutional experiences in Libya. Bolstered by the support of new civil society actors, the NTC declaration gained widespread acceptance in Libyan society.

The NTC helped successfully organise the first "democratic" elections for a General National Congress (GNC) on 7 July 2012. The elections to the General National Congress brought in a 200-member assembly representing 73 districts and had a voter turnout of 60% of registered voters (with 80% of eligible citizens being registered to vote).[15] However, the elections also witnessed regional tensions, federalist unrest, and expressions of concern from ethnic minorities.[16] By the time the GNC took over, the public approval of the NTC and the transitional government had greatly decreased. Omar remarks that,

> they had come to be seen as incompetent, corrupt, ineffective, and lacking transparency. Many decisions were put off until the GNC was elected, and the government excused itself from tackling any of the pressing problems such as security and transitional justice.[17]

GNC results showed the popularity of NTC Prime Minister Mahmoud Jibril's National Forces Alliance that won the majority of seats. Jibril's group won 64 seats, the former Gadhafi public official was known as the "technocrat" and promised economic and social development while the Muslim Brotherhood (some of whose members had links to the LIFG) appeared less popular, winning only 34 of the GNC seats.[18] However, this did not mean that Islamist appeal was absent in Libya; rather, as mentioned earlier, the conservative nature of Libyan society regarded Islam as having a very central role almost by default, indeed, many Libyans would say that they did not need the Muslim Brotherhood to further "Islamize" Libya.[19] Pro-Jibril Libyan voters stated that the political arena was inherently Islamic because the Libyan people were Muslim. They considered that Libya's laws did not need to derive exclusively from the Shari'a and that Libya did not necessarily need political leaders with religious credentials for the state to be considered legitimate in an Islamic sense.[20] Because his party did not have an overall majority in parliament, Jibril offered to form a grand coalition with federalist and Islamist forces within the GNC; a move that facilitated a dynamic of power-sharing and its problems of veto powers.[21]

At the time of this research, the GNC's main promised deliverable, the drafting of a new constitution, was yet to take place. The GNC was unable to decide on the method for appointing a constitutional committee until February 2013. In April 2013, it amended the Constitutional Declaration of August 2011 instead opting for the direct elections of this committee in order to appease GNC federalist members and armed groups in the East who were calling for that step.[22] This decision to hold an election for the constituent assembly has undoubtedly pushed back the establishment of a drafting committee. This indicated both the political and military strength of the Eastern parts of the country and Benghazi

in particular, which feared that an appointed committee would mean centralised orders from Tripoli and less than fair representation.[23] But it also meant that the GNC dissipated its authority by beginning to accommodate the demands of federalist and armed protestors. Article 30 of Libya's Constitutional Declaration of August 2011 was amended in March 2012 to determine that the constitutional drafting body would not be appointed, but would be elected directly by citizens with 20 members representing each of the three regions (just as had been done with the 1951 drafting committee).

While the change from appointment to election appeased the federalists, it increased the concerns of minorities including the Amazigh and women's groups. The Amazigh demands in terms of the constitution were first limited to the recognition of their language and culture.[24] But signs that these demands might not be met prompted Amazigh activists to make more political demands for representation within the constitutional committee that were not resolved to their satisfaction.[25] These dynamics were early indications that the political debate revolved around the GNC's concern with appeasing the federalists and the religious authorities. The main debate was focused on issues of representation (of regions) stemming from a heightened sense of jehawiya and Islam (stemming from the need to address the role of Shari'a law).

The new committee of 60 was meant to draft the constitution within 60 days of its formation and submit it to the GNC before putting it to a referendum. But on 9 April 2013, the GNC made another critical amendment to Libya's interim Constitutional Declaration to prevent former public officials under Gadhafi from holding positions in government.[26] On 14 May 2013, spurred by the Muslim Brotherhood's Justice and Construction Party, the GNC formally approved legislation number 13 on "political and administrative isolation" that prohibits individuals who held public positions between September 1969 and October 2011 from holding any public positions in the future.[27] This was an effort by the Justice and Construction Party to limit the capacity of Jibril's party in order to gain a majority within GNC. This law directly undermined Article 6 of the constitutional declaration, which states that "Libyans shall be equal before the law." The isolation law constitutes an element of continuity in that the new "revolutionary" or democratically elected authorities have created laws to enable them to target the representatives of the old regime. Many revolutionaries wanted to seize complete power and bring in new faces that had nothing to do with the past, much like Gadhafi did when he came to power. Regarding the capabilities of state institutions, the political isolation law was a final blow for most senior officials and bureaucrats, the people who had the experience and expertise to manage government agencies.[28]

In July 2013, the GNC passed an electoral law allowing for the election of the 60-member constituent assembly commissioned to draft the new constitution. But the GNC did not put together a formal body to lead the consultations about the constitution with the population at large. Hence, there was a risk that the drafting process would remain in the hands of the elites and leave out the concerns of ordinary citizens and minorities. The GNC could also not realise its role

in keeping the peace and had no reliable police force. It had to rely on tribal or ethnic power brokers to handle crises. For instance, tensions raised by federalists in the East called for the GNC to formally dispatch informal armed groups to keep the order. In August 2013, the GNC mandated that the Libyan revolutionary brigades secure Tripoli.[29] The GNC therefore remained subservient to these groups, whose loyalties were not to the state, but to their own commanders, regions and ideologies.

Despite the military chaos, the GNC tried to push on with the constitutional process. On 23 September 2013, Libya's High National Election Commission (HNEC), an independent government agency appointed by the GNC, announced that the registration of candidates from the "Constituent Assembly" to the drafting committee was to start by mid-October. The electoral law included a 10% allocation of seats for women and only two seats in total for the Tabu, Tuareg, and Amazigh minorities, which constituted a dramatic underrepresentation.[30] Politically, it indicated that the GNC saw non-Arab Libyans as a single cultural and political entity. Meanwhile the security situation deteriorated, with the frequent assassination of members of the former regime. The chaotic security situation due to the spread of armed brigades reached its symbolic climax when the Prime Minister and head of the NTC, Ali Zeidan, was kidnapped and later released by members of the revolutionary militias in October 2013.[31]

Gradually, the GNC's popularity began to dwindle and the public started to lose faith in the ability of its members to respond to demands on issues such as women's rights, justice, minorities and more. The HNEC announced on 12 November 2013 that registration for candidates for the drafting committee had closed. Immediately afterwards, a group of 12 Amazigh, Tabu and Tuareg lawmakers, as well as representatives of women's organisations, held a press conference to state that they would not put forward candidates, nor vote in this election.[32] This move illustrated the GNC's inability to address demands for better representation by groups who had felt marginalised in the past. It also reasserted the role of Islam, especially after religious authorities had rejected demands for a quota system that would grant seats to women and ethnic groups. Instead, it adopted a provision of alternating between male and female candidates. Owing much to the absence of effective and inclusive state institutions, the constitutional declaration and subsequent decisions by the GNC de facto have brought a new power-sharing formula to Libya. Islamists, federalists and other disgruntled groups can now "veto" the political process. The grand coalitions in favour of the Political Isolation law, the rejection of a quota system for minorities, and the guaranteed election of 20 members from each region, are indicators of an emerging power-sharing order. Although these practices did not formally recognise ethnic minorities, they are signs of a parliament based on consociationalism.

Two key attributes of power-sharing, namely grand coalitions and veto powers, had already become mainstream during the Libya transition. By failing to agree to a third attribute, segmented authority, the elites brought back Gadhafi's policy of ignoring the representation rights of minorities. In theory,

grand coalitions mean that the political leaders of all of the significant segments of a plural and deeply divided society govern the country jointly. Segmental autonomy means that decision-making is delegated to the separate segments of the state as much as possible. This in turn supports fragmentation in identity and in citizenship, as political participation is contingent upon the willingness of these separate segments to engage with their communities.

6.3 Civic activism in the "new" Libya

The 2011 uprising was primarily a critical juncture for freedom of assembly in Libya. Activists called the transition "the phase of the New Libya" (*Libya al jadida*) and demonstrated their commitment to newly found freedoms of speech, assembly, and political participation. Numerous civic groups worked tirelessly during the revolution to counter Gadhafi-sponsored media outlets and provide humanitarian and political support to the rebels.[33] The reliance on community bonds and local identities that were strengthened by Gadhafi's methods of governance were a strong unifying force during the uprising. For the first time in Libya, the 2011 uprisings marked a drastic change in the degree to which citizens had the right of freedom of association, allowing for civil society organisations to operate with a degree of freedom. It became common practice for party leaders and GNC members to attend and support events and activities organised by civil society groups.[34] This relative degree of openness in social and political interactions was a critical break from the past autocracy. Libyan GNC members from both Tripoli and the rural areas boasted that they supported multiple initiatives from civil society. For example, in the Southern town of Merzok, GNC member Mohammad Abul Nabi Baggi began working with local NGOs to raise awareness among voters prior to local elections.[35] In the Eastern town of Darna, GNC member Fariha Barkawi helped raise funds for local women groups working on enhancing the rights of women in the new constitution.[36] My interviews with civil society activists from all over Libya indicated that civil society organisations were a novelty in the country and that they carried demands that were different from what was demanded by more traditional Islamists and regionalist voices. That is not to say that many of the activists opposed Islamist or federalist groups, but that civil society organisations had additional demands revolving around civic participation and accountability in the new Libya.

In terms of the typology of emerging civil society organisations, Libyan groups shifted during the transition from a revolutionary role to one of support for the state-building process – i.e. service providers, public awareness groups, unions and political activism groups. During the conflict, the groups sporadically came together to offer humanitarian relief and to raise awareness about the fight against Gadhafi. Following the uprisings, the gradual return to normal life meant that protestors went back to their families and their jobs. Overall, the number of mass protests and demonstrations declined and, as a result, civil society actors started to lose their leverage on the NTC and the GNC. Yet the period between

2011 and 2013 also exhibited a great deal of persistence on the part of civic organisations in Libya. After more than four decades the Jamahriya had fragmented both formal and informal structures and so the emergence of organised political and civic activity was a surprising phenomenon after 2011. Analysts referred to the sudden increase in the number of activists, and areas of activism, as "a genuine craze by the population to take part in the reconstruction and development process".[37] After the uprising, several of these groups disintegrated as their members had to "go back to normal life" but many chose to institutionalise their efforts and established formal NGOs that would participate in the political process. Going back to normal civil activism would mean having to deal with the state bureaucracy, as well as vexing social and economic problems. As such, it is possible to view NGOs during the transition as having passed through three phases: euphoric enthusiasm, institutionalisation, and formal articulation of their demands for the new Libya.

Under the Jamahiriya, the only recognised "civil society" organisation was the Boy Scouts Association and there were very few registered charities that were service-driven and government funded.[38] Today, these associations "carry the stigma of redirecting Gadhafi's money and policies to society", says a Founding Board Member of the Centre for Civil Society Support in Libya.[39] However, by July 2013 (less than two years after Gadhafi was killed) there were already 2,700 formally registered civil society organisations working on a variety of issues, of a wide range of sizes, degrees of specialisation, and levels of membership.[40] Some observers reported as many as 5,500 organisations operating in the different regions of Libya.[41] Out of the 798 registered groups that held details of their memberships, the average number of founders was about 13, quite a large number, showing that most of these groups were not a "one man show" but were a gathering of citizens working on a variety of issues.[42] This, in addition to the array of reform issues in which these NGOs are involved in (including women, constitution, environment, education, youth and citizenship), is indicative of the dynamism of these new avenues of mobilisation. In Sabha (in the Southern region formerly known as Fezzan) for instance, an umbrella organisation involving tens of local NGOs began working on awareness, elections, and social development issues, especially in the historically marginalised towns of Merzok and Ubari.[43] "Local response and support for our NGO has been overwhelming, and people even want the activists to run in the next election, but I feel my role should remain nonpartisan so I can focus on educational programs in my area", stated Abul Ozoum who runs the umbrella organisation for civil society in Fezzan.[44]

This sentiment reflects a growing realisation among activists that their role is separate from that of public officials. They saw in their non-partisan stance an opportunity to hold the GNC accountable and monitor the process of electing a new constituent assembly. In Benghazi, the Commission to Support Women's Rights in Decision-Making and Politics is one of the most active on the issue of women's representation in the constitution.[45] "Civil society actors in Benghazi are more important and more respected than politicians. We have submitted full

legal drafts for consideration by the GNC", said Hana in response to why she chose to join an NGO.[46] NGOs are also perceived as having more capacity and flexibility to act. These statements testify to the great commitment of activists and their view of civil society as a vehicle for political participation and reform. A "Civil Society Support Centre" was set up, following a decision by the Prime Minister in 2012, with its headquarters in Benghazi. The Centre's Chairman explained that although state resources and funds were still very limited, myriad organisations had registered and were operating across the full spectrum of political, social and economic initiatives.[47]

The remainder of this section takes a closer look at the case of the Forum for Democratic Libya (FDL), which was one such organisation taking a leading role in the (re)emergence of civil society activism and conducting a nationwide dialogue entitled "My Demands in the New Constitution" (*Nebbi f Dostoori*). The empirical findings from the FDL case highlight two patterns in the nascent civil society scene in Libya. Former opponents to the Gadhafi regime, diaspora members, academics and business leaders established FDL in the early days of the revolution in 2011. According to founder and Board Chairman Amr Ben Halim, "the main motivation was to contribute to the revolution by creating citizen awareness about democracy, instilling accountability, and ensuring that civil society can participate in the transition".[48] At first, Ben Halim pooled resources to support rebels and families who had suffered from war and destruction. FDL's work has since developed along three axes: building the capacity of the Libyan youth in terms of outreach and facilitation skills (the *Ruwad* program),[49] developing active citizenship and democratic participation skills, and facilitating participation in the constitutional dialogue.[50]

To provide an overview of the perceptions that civil society activists had about their role and the transitional period, I conducted a survey of 600 individuals engaged in the activities of the FDL between January and May of 2013 in various towns across Libya including Benghazi, Tobruk and Darna in the East, Misurata, Sirte and Bani Walid in the West and Sebha, Ubari and Merzok in the East. Respondents were asked to define issues of importance and the ways in which citizens and civil society were taking part in the political process.[51] Overall, the responses regarding participation in the constitutional process were quite homogeneous, and revealed a dominant perception of an ineffective civil society, of an unresponsive political order, and of a complex reform process. The following observations are particularly relevant in this respect.

Only 13.6% of the respondents stated that they viewed civil society as "highly" effective; the rest expressed doubts that they can have an influence on the political process. The main reason for respondents' participation in the constitutional debates organised by the FDL was a desire for "representation". Respondents also were sceptical about the level of openness and responsiveness from decision-makers, with only 13.9% of respondents believing that decision-makers had a high level of openness to citizens. It is also interesting to note that the respondents perceived civil society to have a strong political connotation (46% linked it to politics, while under 30% linked it to a social or organisational

role). When asked about the priority areas for civil society to work on, the constitution was indicated in most of the answers (70% of respondents) and other prominent aspects included education, the military, media, promoting peaceful dialogue, and justice.

While casting doubt on the responsiveness of decision-makers, most respondents believed that the average citizen should have a role in shaping the constitution (76.7% of participants). This role was said to be generally through "direct actions" (6%) that included taking part in dialogues, participating in conferences, voicing opinions (in the media), and voting in referendums. In addition, 79% of respondents believed that participation in the constitutional debates was beneficial to them and that by doing so they gain more representation, influence and knowledge. This political connotation was specified as civil society having to do with democracy, citizen movements, representation, and accountability among other terms. In addition, 91% of respondents said that civil society has a role in "rebuilding Libya", despite being pessimistic about the response of public officials to their inputs. According to 89% of respondents this input is indirect, through media, political parties, and social interaction rather than through formal face-to-face meetings and consultations. The survey also revealed that Libyans saw their personal role as mostly taking place through actual civic actions (61%) as opposed to membership of organisations (30%) or by occasionally supporting specific issues that NGOs are working on (8%).

The survey results are generally in line with the literature on how civic activism boomed in Libya after 2011.[52] The results also illustrate shortcomings in the ability of government institutions to respond to citizens' demands for greater participation. Despite these shortcomings, 64% of respondents supported the need for the government to have a role in regulating the work of civil society. This was due to the perceived need to find a regulatory framework as many interviewees pointed to the fact that the work of NGOs is often duplicated, that there was a lack of capacity and weak collaboration.[53] In the absence of a supportive regulatory framework, new civic organisations face severe competition from tribal and religious organisations that still play the main role in mediation processes, service provision or political debates.[54]

Respondents also questioned whether the GNC was serious about engaging with this new civil society. One GNC member serving on the Women's Issues Committee explained that the scepticism is mutual, "At the GNC we feel NGOs only want to scream their demands and once asked to participate only a handful are able to do so, and NGOs are rightfully sceptical as GNC members say they respect NGOs, but do not consult with them on significant issues and have completely left them out of the constitutional process".[55] According to the survey, 90% of respondents saw a role for civil society in rebuilding Libya but 73% noted that civil society is unable to make its voice heard. Among the reasons listed were that there was an absence of political will to engage with civil society, the absence of a legal framework to govern civil society associations, and the legacy of political restrictions on freedoms over the past 42 years. This helps explain why the majority of respondents stated that the main political role

of civil society was two-fold: to re-organise relations between citizens and the state, and to help re-establish political stability.

Regarding the constitution per se, the survey revealed the priorities for the new constitution, as summarised in Table 6.1.

Lastly, when participants were asked why they were taking part in FDL activities, the majority said they saw dialogue and elections as a way to "learn about democracy". Participation in the dialogues was interpreted mainly as a means of guaranteeing one's rights by relaying one's opinion. There was a broad recognition (61% of respondents) that the new constitution was an important foundation for the new state in Libya, but that the mechanisms for participating in the constitutional process were still unclear and largely led by civil society's own efforts. Tellingly, more respondents (30%) saw participation in civil society activities as the most effective means of influencing politics, as opposed to participation in elections (21%).

In conclusion, the emergence of new civil and political associations after the 2011 uprising is one of the most important changes from the Gadhafi era. The ability of citizens and civic organisations to gather, articulate demands, and interface with decision makers was a refreshing change from the past. The right to question public officials and to lobby on specific issues was also a new phenomenon. This increase in citizen interest in public affairs and the political process is unprecedented in Libya. Activists exhibited a great deal of awareness about the importance of civil society as the watchdog of the transition. At the same time, NGOs still struggled to channel their demands into a concrete policy-shaping endeavour in general, and over the constitution most particularly.

The next section will address the extent to which one of these organisations was able to influence the agenda for the constitution. Even though civic organisations could now demand change, it was not clear who would listen to them, or even how they could make themselves heard by state institutions and politicians.

Table 6.1 Libyan citizens' list of priorities according to author survey

Priority	Percentage of responses (%)
Security	71.1
Justice and Reconciliation	54.3
Rotation of Power	48.7
Religion	45.9
Model of Governance	45.9
Women's Rights	40.8
Implementation of Shari'a Law	40.9
Citizenship	34.6
Political Participation	32.6
Economic Reform	29.5
Language	23.8
Efficient Use of Natural Resources	14.2
Foreign Affairs	10.3
Equitable Taxation	5.2

Internal challenges faced by the organisations themselves also undermined their ability to influence political reform. Libyan NGOs and activists have very little experience in politics and associational life and these groups often struggle to maintain their membership base, attract volunteers, secure financial resources, and strategise their efforts to influence political decision making.[56] They also operate in a context with no legal regulation to protect their freedom of association, to ensure their rights to access funding and be officially recognised by the state.[57]

6.4 Citizens' voices and priorities

This section further illustrates how the 2011 uprisings, and the transitional period that followed, were only a partially critical juncture for Libya. Because of deeply rooted predicaments that were not widely addressed or debated, over time the schisms that were already present in society became more evident. Thus, what actions NGOs could have undertaken to influence the building of new institutional models was inhibited because political decisions in the transitional period often reinforced these path-dependent trajectories. In particular we observe clear path-dependent outcomes when it comes to treatment of minorities, the absence of national unity, and the marginalisation of civic organisations.

The FDL launched a national initiative in January 2013 entitled "Nebbi f Dostoory" (My Demands in the New Constitution). The project provided the main source of empirical data on citizens' expectations and public demands vis-à-vis the new constitution. It was carried out through 15 semi-structured "dialogue" events organised as focus groups in locations across the country. The topics for the dialogue sessions were based on an initial set of focus groups held between July 2011 and February 2012 that had highlighted five priority issues: (i) the role of Shari'a and Islamic Jurisprudence, (ii) the meaning of freedom and equality, (iii) the shape of the political and administrative system, (iv) the role of minorities, and (v) women's rights.[58] The focus groups also mapped specific priorities by region. Participants in the FDL sessions mentioned that oil and natural resources were their priority in the East, justice and reconciliation was their priority in the West, and citizenship and immigration were their priority in the South.[59] Photograph 6.1 shows the banner that dialogue participants in Southern Libya signed to commit to contributing to a democratic constitution.

The dialogues explored these issues in more detail with a sample of 900 participants between February and March 2013.[60] The participants included (i) people from all regions of the East, West and South of Libya,[61] (ii) representatives of tribal leaders, (iii) civil society activists, journalists, intellectuals and academics, (iv) business leaders, and (v) women and youth groups.[62] The dialogues were based on a structured approach asking participants to list priorities, define their preferences and address key issues they wish to see addressed in the constitution. The participants were then invited to debate three key issues (i) The System of Governance, (ii) Public Liberties, and (iii) Regional Priorities. These three axes would indirectly cover the five issues that emerged from the initial mapping.

Photograph 6.1 Libyans sign a pledge for a new democratic social contract after FDL constitutional dialogue in Sebha, April 2012 (source: photograph taken by FDL Chairperson Amr Ben Halim).

It was agreed between FDL and Libyan constitutional experts not to address Shari'a law directly as it might invoke negative reactions, but rather it was to be addressed by asking citizens how they wished to see public liberties addressed and thereby indirectly invoke the issue of freedoms, women and minority rights in the light of Shari'a law. As for the issue of the political and administrative system, in an effort to clarify the term *nizam idari* that would immediately point to federalism, FDL resorted to asking citizens about the general system of governance they aspired to. Lastly, it was agreed to leave one issue to be chosen at the local level and then analysed as regional priorities. The dialogues therefore included two pre-selected topics that would be systematically debated while also leaving room for local activists to identify issues they considered important.

Locations for the dialogues were selected to ensure that they included: post-conflict locations, locations with ongoing tensions and violence, locations containing significant numbers of (former) Gadhafi loyalists, as well as rural and urban towns. The 15 dialogue sessions took place in the Eastern Region (Benghazi, Darna, Tobruk, and Ajdabia), the Southern Region (Sebha, Murzuq, and Ubari), and the Western Region (Tripoli, Jadu, Bani Walid, Sirte, Misrata, Zawaya, Zleiten, and Khoms). Unlike the survey data on the constitutional process, which showed that most participants converged regarding the significance and the need to partake in the development of the constitution, responses on priorities and preferences regarding constitutional solutions diverged. The following themes reveal

this dyadic relationship, and the following three subsections summarise qualitative observations of responses during dialogue sessions.

The system of governance (nizam al hokm)

In the dialogues, the state system was defined as the system of governance or governance "order". For ordinary Libyans the term often generated intense discussion as the only two systems they had experienced were the monarchy or the Jamahiriya. But after successfully toppling the dictatorship, Libyans were not in agreement on the form of the new system. In part due to the way the armed insurgency was organised, the period between 2011 and 2013 witnessed increasing calls for a federal system, especially from the Eastern region. Intellectuals and activists also openly debated whether Libya should have a presidential or a parliamentary system, whether the monarchy should return, and whether a liberal democracy was even possible

In the dialogues, the most prevalent view among participants was that the constitution should ensure federalism, or at least undertake decentralisation to empower local authorities. The second most popular view was that the constitution should account for decentralisation, but within a unified state system. However, probing into the reasons for this unveils the underlying aspirations of citizens for greater participation, the desire to have a greater voice, and greater equity. The most repeated demand regarding the state system was for a system that could guarantee public services equitably across all regions. The second most common demand was that the state system should guarantee that dictatorship would not return. The third most frequent demand was that the new system should fairly distribute resources and provide sustainable development. These demands indicate two underlying issues. The first is that the terms "federalism" or "decentralisation" are politically loaded and that once asked about their basic needs, citizens across the regions had similar grievances and had similar expectations from the state system. The only regional disparities in the dialogue sessions were that there were more pro-federalists in the Eastern region, indicating an element of continuity from the pre-Gadhafi era. This situation primarily indicates citizens' aspirations for an effective central state, but also for responsive and capable local authorities.

Public liberties (al horiyyat al aama)

The question of freedom is contested in itself, as some personal liberties are still not openly debated in Libya. For example, "public order and morals" (*al nitham al aam*) is broadly accepted to take its foundations from Shari'a law. Thus, when activists were asked what freedom meant they mainly referred to freedom of political and public participation. At the outset, dialogue participants were divided between the most popular view that freedom is about political participation and not private liberties, while the second most supported view was that freedom is about every aspect of life including religion, expression and assembly. The

discussion about freedoms, what is allowed and prohibited, what is acceptable in society and politics, is a very nascent discussion in Libya. Probing deeper into these divergent viewpoints revealed more deeply rooted differences that the constitution must resolve.

Participants regarded the issue of political freedom as relevant to the constitution mainly because it leads to institutional accountability and guards against the emergence of a hegemonic power. Freedom was also said to be required for free cultural, political and intellectual expression, to secure the rights of women, and to encourage new economic activities. Participants linked political freedom to political stability and commonly expressed the view that the new system should not limit such freedoms. Another key demand was that the constitution should guarantee the right of expression and association, as many participants wanted to be able to form organisations, media outlets, and political parties.[63] Lastly, participants cited freedom of cultural expression as a key priority for private and public liberties. In addition to these views on public freedoms, participants were also divided on the role of religion, with differences arising between whether Shari'a should be the *main* source or the *only* source of legislation. Libyans were also divided on the issue of women's rights, with divergent views of the issue of equality between men and women, and of equality under Shari'a law.[64] Lastly, the issue of minorities and language is also a divisive issue, with some participants requiring the official recognition of the Tamazight language and others refusing this, stating that Arabic should be the only recognised language. For instance, in the Amazigh town of Jadu, teaching Tamazight and recognising the language officially was a recurrent demand.

That being said, Libya's history makes citizens sceptical about the role of the state and the ability of any constitution to address these needs. Given this scepticism, the role of religion has become a more unifying factor than membership of the state. During the dialogues, the importance of Shari'a law was generally agreed upon, and no one participant wanted to appear to be challenging this. But while participants could agree on religiosity, the role of political Islam and of Islamic-inspired policies within the state that could guarantee freedom and equality remain unresolved. This has had grave implications for the demands of women's groups and the Amazigh in particular, especially after the Board of Trustees of the Ulama (Islamic authorities) had abandoned the notion of a quota system for minorities, a view that was promoted by women members of the GNC throughout 2013.[65] The role that the armed Islamists played in toppling the regime also granted them a large say in the NTC, particularly in relation to the adoption of Shari'a law as the source of legislation.

The dialogues on these two sets of issues across the 15 locations mentioned above indicated three main issues. First, while the FDL succeeded in generating debate and deliberation on these issues, the impact of this process was limited to those citizens it was able to reach. This was mainly due to the second issue; FDL and dialogue participants were directing their demands to the GNC but significant decision-making power resided in the hands of religious authorities, tribal leaders, and armed groups that were not successfully engaged by civil society. The issue of

Shari'a law, which has a domino effect on personal and political freedoms, is being dictated by religious elites, meaning that the involvement of grassroots organisations was very marginal to the process. The issue surrounding what form the state system should take is shaped by the GNC's attempts to appease federalist groups in the East and armed revolutionaries (as evident in the decision of election of the constituent assembly rather than appointment). This implies that demands for an effective state and capable local authorities are seen as secondary to this high-stakes political struggle, which has turned into a fully-fledged conflict at present. Photograph 6.2 shows the banner that dialogue participants in Western Libya signed to commit to contributing to a democratic constitution.

Regional priorities

Eastern region: regulation of oil and natural resources

Participants almost unanimously identified the issue of the fair redistribution of oil revenues as a main priority for the constitution to address. They saw the management of oil and other natural resources as indicative of whether the political system deserved their allegiance. For activists, redistribution was an issue of "integrity and recognition for those of us who suffered under Gadhafi".[66] They wanted the constitution to include a mechanism to direct investment outside of Tripoli, as well as enshrine principles of transparency. The main stated fears of participants in the Eastern region were how revenues from natural resources

Photograph 6.2 Libyans sign a pledge for a new democratic social contract after FDL constitutional dialogue in Misurata, April 2012 (source: photograph taken by FDL Chairperson Amr Ben Halim).

would be distributed and how the government would create alternative sources of revenue. Feelings of economic injustice and concern over the manipulation of state resources go back to the times of the monarchy and were only heightened in the post-Gadhafi era. At the time of the dialogues (2012–2013) tensions were growing in the Eastern region, with activists accusing the central government of Prime Minister Ali Zeidan of incompetence and corruption. What was of interest here was the connection participants made between natural resources and peace and stability, economic development, and local management of resources. This is an indicator of a rift between grassroots and elites approaches to governance. While federalist leaders in the East focused on the separation of institutions and greater representation, citizens had more substantive demands about equity that the broader discourse on federalism did not directly address. It is also additional evidence that FDL should have engaged with informal, local political leaders and opinion makers, in addition to formulating demands towards the GNC.

Southern region: citizenship and immigration

The most commonly raised issue in the dialogues in the Southern region was the issue of acquiring citizenship; as it was linked to recognition, integrity and quality of life. This was not overly surprising, as the Southern region was historically seen as the "non-Arab" part of the country and therefore as alien to the rest of Libya. Participants explained that to be a citizen is an administrative status that enables one's ability to access resources and services, and provides a shared identity regardless of people's background. It was the procedure surrounding the gaining of citizenship that was implemented unfairly and which lacked consistency in the Jamahiriya.[67] Participants in the dialogue recognised that citizenship had cultural, economic and political implications, especially when it came to women's ability or inability to pass on citizenship to their husbands and children. Gadhafi had linked citizenship to survival and had historically used the attribution or non-attribution of citizenship to particular groups as a reward or punishment. Participants in the South wanted the constitution to address how Libyan citizenship could be obtained and set consistent standards to solve the issue of immigration and stateless citizens, especially in the southernmost regions (by the borders of Chad and Niger). To this day, there are thousands of individuals born in Libya in the south with no recognised citizenship and no official means of obtaining Libyan citizenship.[68] Participants directly related this issue to security, identity, and basic human rights. Their demands for the constitution focused on specifying ways to obtain citizenship, the legalisation of stateless citizens, and for the state to control the borders in order to prevent illegal immigration.

Western region: justice and reconciliation

Participants in the Western region noted that the absence of justice for victims of crimes committed both during and after the revolution was creating polarisation and causing more violence. In the West, most discussions centred on crimes and

violence committed in the 2011 revolution. It was also the region that exhibited the strongest schisms, as pro-Gadhafi loyalists were very much present in the towns of Sirte and Bani Walid. Participants in the West believed that reconciliation efforts were needed primarily to identify who was eligible to take part in the political process, to demilitarise armed groups, and to put an end to violence. The constitution was seen as a secondary issue compared with the need to establish a conciliatory process and/or judicial mechanism. Activists saw the issue of punishment or reconciliation as a vital process, "for people to pay for what they did, or for us to choose to forgive them".[69] Very often activists wanted the constitution to be based on the mechanisms of justice that tribal leaders have used successfully in the past, and saw a need to rebuild the judiciary while still preserving heritage and local customs. The revolution of 17 February is a divisive issue for residents in the Western region, as many residents did not join this revolution and are considered traitors by many members of society. For instance in Misurata, those who did not fight were not necessarily pro-Gadhafi, but as they fled during the conflict they are now considered outsiders in their own community and harassed as "the returned" (*aa'idoun*) after the "martyrs" stabilised the town. Participants noted that reconciliation and even forgiveness for crimes committed is necessary if this region is to be stable again.

The dialogues in each region again revealed the inability of citizens and civil society to effectively refocus the general political debates toward their needs. Although the 17 February revolution, unlike Gadhafi's revolution, reconfigured power and authority and allowed new actors to enter the political arena, the relations between citizens and state authorities is still very challenging. Survey participants reported that interacting with political leaders was possible, but that they were pessimistic about the ability of political institutions to respond to their demands. The constitutional dialogues were vibrant grassroots activities that lacked formal mechanisms to transmit outcomes and the insight gained by policy makers at the local and national levels. For the duration of this study, civil society spearheaded the deliberation process over the constitution. However, at the same time, the GNC and NTC engaged in a form of power-sharing that ensured that two types of actors, the regionalists and the Islamists, had a guaranteed representation and a guaranteed say in the development of the constitution. As a result, more substantive dialogue on the needs of citizens and their aspirations was marginalised.

6.5 Reform limitations of path dependence in Libya

The opportunity for reform embedded in the commitment of the NTC to draft a new constitution and the opening of the political sphere after 2011 was seized by Libyan activists and new NGOs. However, the need for consensus among the GNC, Islamic leaders and federalist factions on the issue of representation within the constitutional drafting committee has marginalised the role of civic organisations. Because of the nascence of the NTC and GNC, the legacy of statelessness prevailed and contributed to postponement of the constitutional process. This

came at the expense of the chance that FDL and other civil society organisations could have used to push forward demands for inclusion and participation in the "new" Libya. More than two years after the NTC's constitutional declaration, in which a 120-day timeline was announced, Libya still did not have a constitutional assembly. This delay, coupled with scepticism by activists in the role of NGOs, can further lead to distrust between Libyans and the emerging state institutions during the transition. The constitutional dialogues documented here reveal that Libyans are yet to address social, political and religious cleavages. The different views expressed constitute in their core different views about the new state in Libya. Unfortunately, the events that followed after 2011 have jeopardised the criticality of the juncture in 2011 and brought back old mechanisms of handling divergent views through violence and subordination of minority voices.

The dialogue outcomes also reveal the weakness of state institutions in performing the basic functions of providing citizenship status, redistributing wealth, and mitigating conflict. This might lead to the rise of non-state power-brokers to whom Libyans will resort during transition. The weakness of state institutions in providing basic services and fulfilling basic functions further supports the argument that the GNC and NTC were weak players in the process of constitutional development. The path-dependent outcomes resonate with Libya's historical tradition of the state's incapacity to institutionalise revolutionary outcomes, which remain at the level of discourse. In practice, revolutions give more leeway to non-state actors or to specific leadership that controls the political process without reforming it into an inclusive process for citizens, civil society and for minority groups.

The transition phase also brought back the politics of exclusion. The political isolation law brought back Gadhafi's old practice of sanctioning those public officials who served in the previous regime and the exclusion of civil servants has left out a large segment of the population that has the experience to manage public organisations. In turn, the tendency of the government to give in to the demands of regional forces, Islamists and armed groups brought a form of power-sharing. By guaranteeing representation to some groups, isolating others, and marginalising citizens' voices, the constitutional process thus far is exhibiting a shift towards a power-sharing formula. Given the significance of the transition phase as a critical juncture, it is likely that this decision will be difficult to overturn in later stages.

While the transition gave citizens the right to formally debate their aspirations and explore their demands from a new constitution, this formal right was not backed by a capable and responsive state structure. The lack of governmental response to civil society organisations made advocacy efforts irrelevant to decision-making around the constitutional process and constitutional deadlines. The FDL, along with other civic organisations, initiated a nationwide process of dialogue and proposed concrete ways to resolve differences. However, no effort to consult with citizens was undertaken by the GNC. At least for the period of this study, the political leadership did not provide the

required tools for an open and inclusive process of constitutional development. In effect, the new era brought back old players without giving sufficient political leverage to new civic associations. Based on the case study, Libya – during its most recent transition – continued to exhibit very weak state institutions challenged by old political forces and a vibrant, although ineffective civil society.

Lastly, while the transition phase allowed for a new margin of freedom for civil society organisations to operate, the case of FDL shows that such groups were ineffective in the reform process. The issue of newly found freedoms was regarded as a priority by dialogue participants and a prerequisite for their participation in the constitutional process. However, the data presented in this chapter point to the scepticism of activists that political leadership would respond to their demands. This comprises another limitation on the level of change that could be expected from the critical juncture in Libya. It appears that the juncture led to the establishment of a new form of "political" civic organisations but constrained their role in decision-making due to weak state institutions and the decision to adopt forms of power-sharing that made civil society actors less relevant to the constitutional process.

Notes

1 Facilitated and attended by author.
2 Rebel fighter in Misurata Katiba (battalion) who claims he was the first to transport Gadhafi's body when it arrived from Sirte to Misurata, interview with author, Misurata, February 2012. Gadhafi's his body was washed and laid out for four days in a meat locker in Misrata. See for example Lisa Anderson "Libya: A Journey from Extraordinary to Ordinary", in *The 2011 Libyan Uprisings and the Struggle for the Post-Gadhafi Future.* Edited by Jason Pack (New York: Palgrave Macmillan), 229–232.
3 Mustafa Sagizly, Head of the Warriors Affairs Commission, interview with author, Tripoli, July 2012.
4 See, for instance, how Green continues to represent Gadhafi loyalists in "Libya's Opposition: Where Green Refuses to Fade", *The Economist* 29 June 2013, www.economist.com/news/middle-east-and-africa/21580161-muammar-qaddafis-hometown-band-loyalists-flaunt-his-favourite-colour-where-green-refuses-to-fade.com, (accessed 10 June 2014).
5 Zoubir and Rozsa, "The End of the Libyan Dictatorship", 1276.
6 See Zoubir and Rozsa, "The End of the Libyan Dictatorship".
7 Ibid.
8 They were regarded as heroes of the revolution who saved Libya with their blood, Mohammad Sagizly, Head of the Warriors Affairs Commission, interview with author, Tripoli, July 2012.
9 Lacher, "The Rise of Tribal Politics", 162.
10 Sawani and Pack, "Libyan Constitutionality and Sovereignty", 526.
11 See a brief on the security situation in Christopher S. Chivvis and Jeffrey Martini, *Libya after Qaddafi: Lessons and Implications for the Future* (Washington DC: Rand Corporation, 2014).
12 About the National Transitional Council, www.ntc.gov.ly (accessed 5 March 2014).
13 This stressed the Islamic identity of the future state, see Sawani and Pack, "Libyan Constitutionality and Sovereignty", 539.

14 NTC Constitutional Declaration on 11 August 2011, *Democracy Reporting*, www.democracy-reporting.org/files/bp_22_constitutional_declaration_libya_2.pdf (accessed 1 July 2014).
15 Omar, "Libya: Legacy of Dictatorship", 73.
16 Ibid.
17 Ibid., 76.
18 Jibril was the interim Prime Minister and head of the NTC, 55 seats were won by independents, Alexander Kjaerum, Ellen Lust, Line Fly Pederson and Jacob Wichmann, "Libyan Parliamentary Elections Result", *JMW consulting* (2012) http://jmw-consulting.com/wp-content/uploads/2013/12/Libyan_Parliamentary_election_study.pdf (accessed 6 July 2014).
19 Faraj Najem, intellectual and activist, Director of the Africa Research Centre in Tripoli, interview with author, Tripoli, February 2012.
20 Many Libyans said they were insulted by the Muslim Brotherhood's obvious attempts to appear more pious and religious than ordinary Libyans. Personal observation. See also Sawani and Pack, "Libyan Constitutionality and Sovereignty", 541.
21 See Frederic Wehrey, *The Struggle for Security in Eastern Libya* (Washington DC: Carnegie Endowment for International Peace, 2012).
22 Sawani and Pack, "Libyan Constitutionality and Sovereignty", 535.
23 See Wehrey, *The Struggle for Security in Eastern Libya.*
24 Anthony Shadid, "Libya Struggles to Curb Militias as Chaos Grows", *New York Times* 8 February 2012, www.nytimes.com/2012/02/09/world/africa/libyas-new-government-unable-to-control-militias (accessed 7 June 2014).
25 Gadhafi's regime denied minority (Amazigh, Tubu and Tuareg) rights to exercise their cultural and linguistic identities. See Sawani. "Post-Gadhafi Libya", 21.
26 See "Political Isolation Law Passed Overwhelmingly", *Libya Herald* 5 May 2013 www.libyaherald.com/2013/05/05/political-isolation-law-passed-overwhelmingly/ (accessed 10 December 2013).
27 *Libya Herald*, "Political Isolation Law Passed Overwhelmingly".
28 Bruce St. John, "Not Inclusive Yet", *SADA Journal* http://carnegieendowment.org/sada/2013/09/26/not-inclusive-yet/gobh (accessed 10 February 2014).
29 Alisson Pargeter, "Why Elections Won't Save Libya", *Al Jazeera News*, 4 July 2014, http://america.aljazeera.com/opinions/2014/7/libya-council-ofdeputieselectionsislamistssecuritybenghazi.html (accessed 15 July 2014).
30 St. John, "Not Inclusive Yet".
31 See Chris Stephen and Nicholas Watt, "Libyan Prime Minister Ali Zeidan Calls for Calm after Kidnapping", *Guardian* 10 October 2013, www.theguardian.com/world/2013/oct/10/libyan-prime-minister-ali-zeidan-freed-kidnap (accessed 9 July 2014).
32 To date, the elections have not been completed and no new timeline for putting up the constitution for referendum has been assigned.
33 See Wollenberg and Pack, "Rebels with a Pen".
34 For example Omar Bou Life asserted that civil society organisations are a crucial partner in the transition process, Head of the Legislation and Constitution Committee at GNC, meeting for Tripoli-based NGOs attended by author, Tripoli, August 2013.
35 Mohammad Abul Nabi Baggi, GNC member from Merzok, statement in press conference attended by author, Tripoli, August 2013.
36 Darna is historically home to both communist parties and Salafi groups, known to be among the most culturally conservative towns and hence highly challenging for women's rights but Barkawi's support for nascent women's groups in the town has enhanced their image and is helping expand their work. Fariha Barkawi, GNC member from Darna, Interview with author, Tripoli, June 2013.
37 "Assessing the Needs of Civil Society in Libya", *Foundation for the Future* (2011) www.foundationforfuture.org/en/Portals/0/PDFs/ASSESSING%20NEEDS%20OF%20CIVIL%20SOCIETY%20IN%20LIBYA.pdf (accessed 9 June 2012).

38 Mohammad Zoubair, Chairman of the Board for the Centre for Civil Society, interview with author, Tripoli, August 2012.
39 Lamia Abu Sedra, member of the Humanitarian Relief Coordination platform in Benghazi and later Director of the Centre for Civil Society, interview with author, Tripoli, February 2012.
40 Database of registered civil society organisations, obtained by author from the Chairman of the Centre for Civil Society, list updated until July 2013.
41 Duncan Pickard, constitutional specialist working from Libya with Democracy Reporting International, interview with author via Skype, December 2012.
42 Average calculated from data on registered civil society organisations, obtained by author from the Chairman of the Centre for Civil Society, list updated until July 2013.
43 These areas have high numbers of the Tabu community who had been denied citizenship and access to public services under Gadhafi, see Van Waas, "The Stateless Tabu of Libya?"
44 Abulozoum Al Lafi, Director of Fezzan Coalition/Gathering, interview with author, Tripoli, June 2013.
45 See an article mentioning their efforts in Benghazi "Libyan NGOs Call for Peaceful Celebrations", *Libya Herald* 11 February 2013, www.libyaherald.com/2013/02/11/libyan-ngos-call-for-peaceful-celebrations-or-demonstrations/#axzz35llebl1j (accessed 10 June 2014).
46 Hanan Al-Fakhakhry, activist in the Commission to Support Women's Rights, interview with author, Tripoli, June 2013.
47 Mohammad Zoubia, Chairman of the Centre for Civil Society Support, interview with author, Tripoli, June 2013.
48 Amr Ben Halim, Chairman of the Board of the Forum for Democratic Libya, interview with author, Tripoli, January 2013.
49 For two years the Ruwad (pioneers) programme selected and trained more than 50 youths on a citizenship curriculum and on facilitation skills to enable them to implement workshops and dialogue sessions on citizenship and civic participation with over 1,600 citizens.
50 Who We Are, Forum for Democratic Libya, www.fdl.ly (accessed 10 January 2013).
51 The survey had some open-ended and some closed questions. It was inserted and analysed on SPSS. The 572 respondents were divided into 75% males and 25% females, which is quite normal given women's reluctance to participate openly in the areas visited. The respondents were 27.7% from the South, 31.3% from the West, and 41% from the East, which makes the sample representative of regional aspirations and perspectives.
52 See for instance the notion of counter-power that civil society can create during and after an uprising in Benoit Challand, "The Counter-Power of Civil Society and the Emergence of a New Political Imaginary in the Arab World", *Constellations* 18, no. 3 (2011): 271–283. See also the role of civil society in a democratic transition, Jason Boose, "Democratization and Civil Society: Libya, Tunisia and the Arab Spring".
53 Mohammad Zoubia, Chairman of the Centre for Civil Society Support, interview with author, Tripoli, June 2013.
54 Youssef Sawani, "The Dynamics of Continuity and Change", in Jason Pack, *The 2011 Libyan Uprisings and the Struggle for the Post-Gadhafi Future.*
55 Hana' Al Irfi, Head of the Women's Caucuses/Committee at the GNC, interview with author, Tripoli, June 2013.
56 Workshop by International Centre for Non-profit Law and UNDP on a new NGO Law for Libya, notes taken from statements by representatives of 25 NGO members, attended by author, Tripoli, June 2013.
57 Libya still has no NGO law and current organisations are operating in a legal vacuum, activists fear that this freedom can be taken away from them by the new government unless GNC is able to pass a law during its current term. In my survey, 61% of

respondents supported the view that government has a role in regulating NGOs. Notes from workshop by International Centre for Non-profit Law and UNDP on a new NGO Law for Libya, notes taken from statements by representatives of 25 NGO members, attended by author, Tripoli June 2013.
58 FDL initial findings were in tune with a number of policy reports on the constitutional priorities, see for instance Human Rights Watch, "Priorities for Legislative Reform: A Human Rights Roadmap for a New Libya".
59 The topics also are reflected as priorities in the survey. See Forum for Democratic Libya (May 2012). "Libya's New Constitution: Towards an Inclusive and Democratic Social Contract", initial mapping report, translated from Arabic.
60 Six hundred out of the 900 participants agreed to fill the aforementioned survey before the dialogue started. Dialogue participants were a sample from the youth and women groups, military, former revolutionaries, local councils, media, civil society, political parties, academics, experts and tribal leaders.
61 FDL selected these regions in line with the historical areas of Fezzan (West), Cyrenaica (East), and Tripolitania (West). This selection was done to engage citizens from the historically divided provinces and explore the extent to which demands are similar or divergent. The locations within the regions were also intended to include both rural and urban areas as well as more conservative and liberal areas. Amr Ben Halim, Chairman of the Board of the Forum for Democratic Libya, interview with author, Tripoli January 2013.
62 Overall the participants were 40% women and 40% people under 45.
63 At the time of writing, Libya still has no NGO law but 25 NGOs are already supporting a draft law that the Centre for Civil Society has proposed, GNC is yet to respond. From two focus groups with representatives from 28 organisations, attended by the author, Tripoli, June 2013; for the states on the NGO law proposal see Human Rights Watch, "Priorities for Legislative Reform: A Human Rights Roadmap for a New Libya".
64 Feedback from 15 women NGOs in workshop organised by UNDP on special measures and women quotas, attended by the author, Tripoli, June 2013.
65 Hana' Al Irfi, Head of the Women's Caucuses/Committee at the GNC, interview with author, Tripoli, June 2013, and see Sawani and Pack, "Libyan Constitutionality and Sovereignty Post-Gadhafi", 530.
66 Mohammad Zaroug, project coordinator of Nebbi f Dostoory and resident of Benghazi, interview with author, Tripoli, June 2013.
67 See Summary of Stakeholders' Submissions to the Universal Periodic Review of Libyan Arab Jamahiriya, A/HRW/WG.6/9/LBY/3, 15 July 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session9/LY/A_HRC_WG.6_9_LBY_3_Libya.pdf (accessed 12 June 2014). Also see Al Rumi, "Libyan Berbers Struggle".
68 Forum for Democratic Libya, "Constitutional Briefs: Towards an Inclusive and Democratic Social Contract", translated from Arabic (2013).
69 Activists in focus group, organised by author, Misurata February 2013.

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7 Moving past "partially" critical junctures

7.1 Introduction

The cases of failed, or partial reforms to the electoral system in Lebanon and to the constitutional process in Libya reveal a great deal about people, institutions and the direction of change in my region. Identifying the constraints on political reform first requires an understanding of the history and contemporary contexts of both countries. I have argued that there were three constraining elements of continuity from the Ottoman and colonial eras as well as from the postcolonial period that remained prevalent in Lebanon after Syria's withdrawal in 2005 and in Libya after the fall of Gadhafi in 2011. These constraints explained here within the framework of path dependence were weak state institutions, power-sharing agreements, and ineffective NGOs. The question is: where can the researchers and the activists go from here? Is there a way to move past a "partially" critical juncture and if so what would be those conditions?

This book has provided a three-pronged analysis of the constraints on political reform during transition, after a critical juncture has taken place. I have argued that these constraints challenged the assumption that critical junctures in Lebanon and Libya created heightened possibilities for change. These constraints when explored in detail led to the conclusion that these junctures were only partially critical. I challenged a common argument that significant transformations took place in Libya after the "Arab uprising" and in Lebanon after the Syrian withdrawal. I also illustrated how civil society organisations played an important role during the transition process. However, the analysis showed that civil society in the context of power-sharing and weak states was unable to bring about significant political reform. The strength of the analysis on partially critical junctures is that it showed what changes were possible during transition and explained why some changes were not possible. In this sense, my research contributes to a debate on political transition in the region that is not binary, but that is based on in-depth exploration of the grey areas between change and continuity.

In this chapter, I bring together the insights uncovered in the cases of Lebanon and Libya and lay the foundation for future avenues for both research and civil society actors concerned with political reform in the region. The objectives of this chapter are three-fold. I first compare the elements of continuity in Lebanon

and Libya to specify the mechanisms of path dependence and the partial nature of the critical junctures the two countries underwent. Secondly, I highlight the implications for political reform in this type of MENA transition from the perspective of historical institutionalism. Thirdly, I question the more recent discontent in both Lebanon and Libya and provide ideas inspired from recent discussions with activists for future research that address both the method of inquiry around transitions, the approach to analysing civil society, and the practical applications of these findings to civil society actors in both countries. As mentioned in Chapter 1, Lebanon and Libya are two distinct, but comparable cases. Whilst Lebanon displays deeply entrenched elements of continuity, this research identifies signs that Libya has sadly headed in the direction of evading reform and slipping into violent conflict. The findings suggest that the three variables studied in Lebanon are also beginning to be found in Libya and potentially in other parts of the region, although in different ways.

7.2 Comparing elements of continuity

Political scientists have long been interested in political change in general, and regime change in particular. There is a large body of literature that focuses on identifying change, interpreting change, and trying to predict change and the direction of political transitions. By investigating path dependence in Lebanon and Libya this book identifies new elements that can be used in developing further hypotheses and theories on the sources and types of political change. Path dependence helped explain how and why reformers in Lebanon and Libya could or could not operate effectively by showing how historical processes and structures limited the potential of specific junctures.[1] The potential I refer to in each juncture is the extent to which there exists the possibility for a greater transformation than would have been possible before the juncture. I not only described the processes and junctures that shaped change, but also identified the intricacies of path dependency, intricacies which limited the potential of each juncture. This section compares the ways in which power-sharing, weak states, and ineffective civil society organisations formed the constraints that have limited political reform in Lebanon and Libya.

Implications of weak states

Weak states in both Lebanon and Libya were a central theme in my framework. I argued that during the transition the state institutions were a very ineffective actor in political reform. As one element of continuity, a main feature of weak states is public institutions that are limited in their ability to push forward reform options and to advocate for, or implement, reform. Weak state institutions are limited from a resource perspective and from a political leverage perspective. To say that the states of Lebanon and Libya are weak means that there are other political actors that are (too) strong in relation to the state, the former are able to decide to undertake or not to undertake reforms.

For both countries the state has failed to permeate all political, social and geographical boundaries. State institutions therefore were not the main providers of political goods and were incapable of executing even partially consensual reforms. The examples of electoral reform and constitutional development showed that the state institutions were largely paralysed and in deadlock for most of the period studied. Lebanon's parliament did not convene between late 2006 and May 2008 until an agreement was reached with Qatari patronage that only partially addressed the demands for reform of the electoral law. In Libya, the General National Congress (GNC) experienced a deadlock for months regarding the law for the election of a Constituent Assembly and it was unable to conduct any formal activities to address citizens' demands for the constitution.

The states of Lebanon and Libya displayed weaknesses at the institutional decision-making level. In Lebanon, the state at the national level could not mitigate the polarisation between the March 8 and March 14 factions. At the height of this polarisation, state institutions were paralysed pending support from Qatar to bring about the 2008 Doha Agreement that included a new electoral framework.[2] In Libya, between August 2011 and February 2013, the GNC and National Transitional Council's (NTC) political failures meant that the military and political intervention of non-state actors was decisive for the promulgation of an electoral law for the constituent assembly.[3] In both cases, decisions taken in formal processes led by state institutions needed the approval of non-state actors. When it comes to political reform therefore, these states remain unable to push forward, or to execute reform that might threaten the interests of these non-state political actors. This fosters the subservience of the state to external ethnic, sectarian or tribal actors. This situation provides a good illustration of the following point made by Mahoney on path dependency when he said "an institution can persist even when most individuals or groups prefer to change it, provided that an elite that benefits from the existing arrangement has sufficient strength to promote its reproduction".[4]

Secondly, both Lebanon and Libya were dependent on public administrations that lacked capacity and the political leverage to promote the rule of law. Although the 2009 elections in Lebanon were overseen by a Supervisory Committee for Electoral Campaigns (SCEC), violations of the law were widespread. SCEC had no institutional or political "teeth" to control, limit, or sanction violations. Vote buying, sectarian discourse, hate speech and misuse of public spaces dominated the 2009 elections.[5] In Libya, the NTC accepted two amendments to its original Constitutional Declaration, the first was to elect instead of appoint a constituent assembly, and second was to revoke equal rights for Libyan citizens by agreeing to a political isolation law. During transition, both the NTC and GNC could not take any legal measures against crimes and assassinations and instead had to rely on armed brigades to keep the peace. The foremost example of this was the kidnapping of the head of the NTC, Prime Minister Ali Zeidan, by armed groups in Tripoli in October 2013. During this transition, the Libyan state failed to create an army or police force that was capable of dealing with the security challenges that were having deep implications for the types of political

challenges that characterised the period of this study. During the transition phases, the state's weakness encouraged the re-emergence of the role of ethno-religious and military groups in Libya, and in Lebanon this reinforced the role of sectarian leaders as caretakers and guarantors of stability.

A third facet of this weakness was that the states were unable to structure or promote civil society's participation in the reform processes. Thus, these states were unable to respond to the demands of citizens working through civil society organisations. This meant that during the phase of revolutionary demobilisation the state could not benefit from, or enhance the role of civil society organisations. This was evident in Libya for almost two years, where the GNC could not launch a formal dialogue process on the constitution, although this was demanded by most civil society organisations. Although the civil society groups studied here benefited from the new possibilities, after the uprisings, to engage public officials, state institutions were not geared toward making good use of these efforts and demands. For similar reasons in Lebanon, between 2006 and 2008, the parliament could not adopt the recommendations of the Botrous Commission, or address the demands of the Civil Campaign for Electoral Reform (CCER). Weak state institutions cannot act as a conduit between civil society and policy makers and are therefore a structural challenge to the role of civil society organisations in both Lebanon and Libya.

Lastly, in both countries, citizenship and political rights continued to be linked to a person's ethnic, religious or regional origin. State institutions were not the guarantor of citizenship rights or status. Mobilisation of the public after the uprisings was increasingly through sub-national groups. In Lebanon, sectarian political parties and loyalties to high-level zu'ama remained the main mechanism for receiving recognition and benefits from the state. For example, the only way to be able to vote is through proof of ancestral and sectarian origin, while the absence of civil courts and civil status laws means that the right to citizenship, and with it, formal recognition by the state, is a result of belonging to a sectarian sub-national group that has been officially recognised and guaranteed representation. In Libya, the post-Gadhafi phase witnessed a re-emergence of this form of mobilisation through sub-national groups that included primarily the federalists in the East, the Islamists, and the ethnic groups (especially the Amazigh community). The state's inability to act as the final arbiter on citizenship, rights and responsibilities, further undermined the role of the new ("modern") civil society organisations and their ability to shape reforms.

One major consequence of the maintenance of a weak state is that non-state groups get stronger over time and reinforce path-dependent outcomes. Based on the observations made before, it is perfectly understandable how the Lebanese sectarian elites were able to continue to disempower state institutions after Syria's withdrawal in 2005 and in so doing reinforce their positions as sectarian leaders. In the Libyan case, the chaos of the transition phase and the presence of powerful, armed groups were not conducive to building a strong central state administration. The failure to disband the armed groups and to generate political consensus on a national institution then facilitated the continuation of the

disempowering of the state by the actors of the revolution/civil conflict. In these weak states, "revolutionary" junctures are critical because they place institutional arrangements on particular paths or trajectories, which are then more difficult to alter. The notion of a partially critical juncture illustrates a case where states remained weak during the transition and thus reforms by new civil society actors remained heavily constrained by older social and political actors.

Implications of power-sharing agreements

Power-sharing agreements in both Lebanon and Libya were a temporary remedy for conflict and internal divisions, offering representation to the major religious and political groups in each country. Lebanon has long adopted this formula while Libya is now exhibiting signs of a potential consociational order. As defined by Lijphart, this system of governance primarily means the adoption of grand coalitions and segmental autonomy.[6] Both these elements make the state institutions weaker than the segments supporting them. Additional potentially problematic characteristics are proportionality and the minority veto. These features are problematic for reform as they reinforce Mahoney's assertion that the power to change remains in the hands of elite groups who can avoid institutional reform even if citizens demand it.[7]

One of the first implications of power-sharing is a diminished sense of national identity and of identification with the state. The foundations of Lebanon's state structure under the French mandate originated in the Ottoman millet system, which guaranteed sectarian groups the ability to govern their own communities. This form of communal power-sharing in Lebanon enabled the persistence of a strong sectarian political culture throughout the postcolonial period, including after the Syrians withdrew in 2005. This political context in turn constrained the possibility for electoral reform in 2005 and 2009 because the proposed reforms would threaten the interests of the sectarian elite. In Libya, the first constitutional process of 1951 enshrined regionalism as the basis for participation in the new nation state. While this model subsided under the monarchy and disappeared under Gadhafi, it made a comeback by default during the 2011 revolution and ensuing civil conflict. The gradual emergence of power-sharing in Libya following 2011 fragmented the Libyan public and political sphere even further down the lines of tribes and regional sub-groups, and constrained the ability of citizens to participate meaningfully in the constitutional process. A more inclusive and open constitutional process as proposed by FDL, would have diminished the power of the emerging ethnic, military and religious elites. The dispersion of decision-making powers among pre-determined segments fragmented identity and citizenship in Lebanon and Libya during these transitions. In both countries, political participation of citizens and civil society remained contingent upon the willingness of separate segments (religious, sectarian, tribal or ethnic) to engage with their communities. Segmental autonomy therefore, inherent to the premise of power-sharing, inhibits any reform that would make the political order more inclusive and participatory and more open to civil

society. This also meant that if and when sectarian or ethnic leaders chose to veto a process, power-sharing destabilised the political process and increased the potential for violent strife. This evidence verifies that the lack of willingness to adopt political reforms by both the Lebanese and Libyan political systems is maintained by enshrining power-sharing agreements, and vice versa, being that the persistence of power-sharing agreements and cycles of violence indicates a lack of political will for reform.

Secondly, in both countries the representation of predetermined groups posed a challenge to civic participation in reform processes. Power-sharing mechanisms that gave greater power to sectarian or ethno-Islamic groups rendered these civil society organisations largely ineffective. Advocacy and mobilisation attempts from outside of predetermined groups had a marginal impact on the outcomes of the constitutional process in Libya and on the elections in Lebanon. For example, in the 2009 elections in Lebanon, the opposing 8 March and 14 March camps colluded in devising an electoral law that served their interests by dividing up voters and districts to favour their own sectarian lists. Although this came at the height of the CCER campaign, parliament paid lip-service support to their demands, but at the end of the day voted on a law that supported a sectarian majoritarian system. In Libya, at the height of the efforts of the FDL, and other groups, in advocating for an inclusive grassroots dialogue during the constitutional process, the GNC chose to back the representation of Islamists and federalists in the process.

Thirdly, an explicit or implicit power-sharing formula exacerbated the lock-ins in the state system. Due to the confinement of participation to pre-selected groups, when political institutions evade reform during a revolutionary juncture it is likely that this situation will create reinforcement mechanisms. In Lebanon, the 2009 revisions to the electoral law did not include key reforms that would make the elections more competitive and representative. As a result the elections displayed clear vote buying patterns that locked-in the role of high level zu'ama in the process of mobilising voters. Power-sharing creates long-term ripple effects, because power is in the hands of elites that are benefiting from a lack of reform. In Libya, the GNC's decision to use elections rather than an appointment process for the constitutional committee de facto empowered regionalist groups at the expense of a more balanced representation of citizens' views in the constitutional process. As a result, the constitutional timeline has been extended without a concrete end date in sight pending the ability of the High National Elections Commission to organise and manage the election of the drafting assembly.[8]

After these junctures, mass protest movements were subsequently demobilised when power-sharing institutionalised representation and gave greater voice to only a few of these groups. Because power-sharing rests on the foundations of a grand coalition and guarantees veto powers to major ethno-religious communities, political leaders with a strong social base tend to emerge as the guarantor and protector of the "new" political system. The role that these actors take upon themselves does not allow for the emergence of a civically oriented

opposition or for civic participation in the system. In both countries therefore, political leadership refocused around leaders, zu'ama, tribes or Islamists and this refocused political participation around these leaders. Both uprisings failed to lead to the creation of viable national political parties with reformist outlooks and which comprise of multiple sub-national identities. The only space explored here that was intra-ethnic and intra-sectarian was in the new civic organisations that were, however, ineffective in bringing about reform. Power-sharing encouraged a "return to the past" rather than reform and renewal.

Lastly, power-sharing transfers allegiances from the state to sub-national groups and as such diminishes from the state's ability to direct the transition. Sub-state groups became more powerfully entrenched and their demands shaped the reform (or non-reform) process. In Libya, the recognition of minorities evolved gradually during the transition, while Lebanon's system gave power to sectarian groups consistently before and after the 2005 juncture. As such, although power-sharing can temporarily mitigate conflict and civil war, its long-term effects create a state structure that buttresses the role of particular elites in power and is inherently resistant to reform. The difficulty is heightened when actors view power-sharing as a finality (as in the Lebanese case) rather than a transitional measure (as could be the case for Libya). It is possible to argue that Lebanon has long missed its opportunity to reform the political order, while at the time of writing Libya was still evolving into a power-sharing structure (prior to the eruption of large-scale violence). The major evidence I bring forward is to show how power-sharing weakens the potential for civil society actors to promote political reforms during a political transition. I have shown in the case studies of each country how adopting power-sharing guarantees that the citizens and political groups that ascribe to the pre-determined segments end up having a greater influence over reform. Because of the effects of critical junctures, this "right" to a share of political power creates long-term implications that are difficult to reverse.

The ineffectiveness of non-governmental organisations

Civil society organisations formed the main case studies and sources of empirical evidence that supported my argument regarding the non-critical nature of the recent "revolutionary" junctures in Lebanon and Libya. The notion of civil society was problematised first by portraying it as an array of organisations, movements and groups that emerged as a widespread phenomenon after each uprising. The organisations studied here were examples of NGOs engaged in political activism and lobbying, and were chosen to help explain the constraints on political reform. Studying political activism by NGOs during the transitions also helped reveal how weak states pose a challenge to the mobilisation of citizens and their participation in the process of political reform during transition. I explained the uprisings using Capoccia and Kelemen's definition of critical junctures as relatively short periods of time during which there was a substantially heightened probability that agents' choices would affect the outcomes

of interest.[9] NGO actors were one category of agents that were supposed to play a greater role during transitions than they could before the junctures. During the uprisings citizens and newly emerging NGOs were able to widely mobilise people against Syria in Lebanon and against Gadhafi in Libya. In both cases, the dynamics of mobilisation during the uprisings were quite spontaneous. However, demobilisation after the uprisings was challenging for NGOs in both countries.

The organisations selected for these case studies were unable to create enough grassroots support for the reforms that they proposed. The experiences during the transitional periods questioned the ability of these NGOs to formulate demands that were non-adversarial; while they were able to mobilise citizens in opposition to the current situation, they struggled to cause impact in favour of a new form of governance. Ultimately, in Lebanon, the sectarian system and role of zu'ama was reinforced in the political process at the expense of the role of NGOs after 2005. Similarly, Libya's constitutional process strengthened not new NGOs but historically marginalised agents such as Islamists, tribes and federalists. The NGOs did, however, have the freedom to carry out their work across the entirety of both countries, engage with various segments of society, and openly formulate their demands as a result of the partial transformation of the political environment.

Second, NGOs were slow to organise themselves and their demands in relation to the pace of the transitional period. LADE had been operational for almost a decade before the critical juncture, while FDL was in inception during the revolution. However, the long-term features of Lebanon's political system – a specific notion of political leadership (*zu'ama*), of power-sharing agreements (coexistence), and of political institutions (*nizam taifi*) – overrode the transient potential of NGOs. The Lebanese transition after 2005 quickly brought back adaptable sectarian leaders, reinforced a culture of coexistence among the elite, and strengthened sectarian institutions that stifled the nascent groups that were engaging in political activism and lobbying. In Libya, by empowering and strengthening the "older" types of sub-national groups (Islamists and ethnic minorities), the process gave a greater role to regionalism (*jehawya*). The literature on critical junctures generally stresses the importance of sequencing and timing in the analysis. By looking at the emergence of political institutions in Libya and the re-emergence of political institutions in Lebanon, we find that NGOs were often at fault in terms of the timeliness of their demands. It was as if by the time they launched their campaigns it was too late for the political order to change as the critical juncture had already passed.

Third, the NGO campaigns in both countries tried to distance themselves from traditional power structures of tribe, sect or ethnicity. While this autonomy provided the activists with a margin of freedom to engage with a wide range of audiences, it also distanced them from the daily concerns of citizens. This "neutrality" was often ineffective in generating sufficient pressure for reform. FDL and LADE's advocacy efforts failed to persuade politicians to adopt reforms. The partial criticality of the junctures created a window of opportunity

for NGOs to register and operate in a way that could lead to their demands being formally recognised. But formal recognition was not enough for a formal agreement from political institutions to adopt and implement reforms that would have made the juncture fully critical. In many ways, this failure was connected to the strategies of both LADE and FDL in keeping their autonomy from political leaders who were well known to people at the grassroots level. In addition, the ineffectiveness of these strategies was linked to their assumption that the centres of power and sources of decision-making and authority in Lebanon and Libya were official government bodies. In both cases, there were non-state political actors directly shaping the decisions of the parliament and the GNC. In Lebanon, a "national dialogue table" was set up between 2007 and 2008 to take strategic decisions while the parliament was practically unable to function. However, NGOs directed their efforts either to formal governmental institutions or to grassroots activism. At this point, government institutions and grassroots were not the most important players in deciding on the new electoral law in Lebanon and in developing the process for Libya's new constitution. Evidently, the activists failed to properly map and understand the power structures that underlay political reform in the two weak states.

Lastly, both campaigns faced similar organisational challenges regarding the sustainability of their efforts. FDL could not sustain or increase its efforts at the time when the GNC was passing an electoral law and the political isolation law. FDL succeeded in engaging citizens in dialogue at the local level, but had no mechanism to translate its efforts into a concrete political outcome. It remains to be seen whether FDL will undertake efforts to influence the content of the new constitution once a drafting committee is in place. In Lebanon, LADE failed to link its reports on violations to the CCER movement. While LADE organised and trained over 3,000 observers to document violations to the electoral process, it had essentially stopped its CCER-related activities shortly after the passing of the new electoral law in Doha.

The major contribution of this empirical evidence on the two NGOs was two-fold. In terms of the method, the case studies aided in the inductive exploration of each of the critical junctures by providing concrete empirical evidence that supported a broader conclusion about the transition in both countries. By showing how NGOs were ineffective in influencing reform, I have revealed patterns of citizen-state relations and civil society-state interactions that would otherwise go unnoticed from a purely institutional perspective. I challenged the normative approaches that claim NGOs routinely contribute to democratisation, or that suggest NGOs are incompatible with the political culture in the Arab region. The case studies in this book "freed" the notion of civil society from these binary arguments and revealed the importance of a particular pattern of path dependence in the broader political system. In this sense, NGOs are not a sign of the absence or presence of democratisation trends, but a reflection of the types of demands and forms of demobilisation that exist in a particular country. NGOs are also an important avenue in the exploration of citizen-state relations, and more specifically, to what extent the state can or cannot address reform

demands during transitions. The fact that both NGOs had demands for a more inclusive and representative political order and the fact that the state could not adopt such reforms is profoundly significant in explaining the transition and direction of the changes in both countries.

Throughout this book, the approach of path dependence was used to explain the way in which political leaders in Lebanon, and political newcomers in Libya during the transition, reinforced similar institutional mechanisms to those in place pre-uprising. Here, I also expanded the work of historical institutionalists, who see political actors as rationally-bound satisficers.[10] I argued therefore that political actors who were anti-Syrian in Lebanon and anti-Gadhafi in Libya did not act in a way to maximise national interest, but were bound by institutions and past practices. The weakness of the reform process is therefore both a symptom and a *reinforcer* of path dependence.

A final remark should be made here on the three levels of analysis; namely power-sharing, weak states and ineffective civil society organisations. In addition to the implications of each of level on the reform process, this book also explains how they reinforce one another. I have argued that power-sharing in itself weakens the state and marginalises civil society. I have also argued that a weak state structure facilitates the emergence of a power-sharing agreement, especially after a conflict. In itself, an ineffective associational sector is both a symptom of weak states and power-sharing agreements, but is also an enabler of these two dimensions. A strong and influential, nationally active civil society could prompt a process of reconstruction of strong state institutions and could either be part of power-sharing agreements or maintain a strong oversight role regarding such agreements. The interaction of these three levels leads to a state that is incapable of acting as a mediator, promoting reform and executing even partial reform. An ineffective civil society gives a greater space to the role of predetermined sectarian groups within power-sharing agreements. The major difference between the two cases is that the Lebanese case is more an example of the resilience of a long-standing system, while Libya's situation reveals emerging trends that are not yet fully formalised. It can even be argued that Libya is almost certain to have power-sharing agreements, and that the end of the transition process will create lock-ins for future reformers.

7.3 Questions for the future: can civil society move past "partially" critical junctures?

I end this book with three main conclusions and some remarks. The first remark deals with the theoretical contribution of my framework, the second concerns the implications of this study on future research, and the third is about the practicality of civil society activism in light of junctures that were only partially critical. The current challenge for Lebanon and Libya is that once a political juncture is rendered only partially critical it sets both countries on a path-dependent trajectory that makes reform unlikely. Failed reform attempts in both countries subsequently reinforced the recurrence of pre-existing political dynamics. As such,

political alternatives that were plausible during the uprising appear almost impossible after the criticality of the juncture is lost. The partially critical juncture of Syria's withdrawal made electoral reform a plausible option, particularly when the government appointed the Burrous Commission to seriously study the required reforms and their implications. For reasons addressed in Chapter 4, that opportunity was lost. Hence, the elections of 2009 showed clear elements of continuity from the 2005 elections as well as the elections held under Syrian tutelage. Similarly, in Libya, the 2011 revolution brought about a crucial transition phase when the formation of a new governance system for the country was plausible. The constitutional case study showed how Libya's GNC has had to resort to various strategies to appease tribal leaders, Islamists, and militant groups in order to tempt them into the process and was unable to respond to the demands and priorities of activists.

I have argued that in the presence of a weak state, a power-sharing order and an ineffective civil society, "revolutionary" junctures are not really critical to the political system. For junctures to be critical it is necessary to undergo deep changes from how the question of political reform was previously dealt with. These changes must be significant for state institutions, for the political leadership and for civil society organisations.

Figure 7.1 summarises the constraints on reform analysed in this book.

This framework presents an innovative way of explaining why political reform was constrained; this was achieved through the study of partially critical junctures that could be said to reflect transitions in the region. Looking at junctures as partially critical is useful in three ways for understanding political change and continuity in the MENA region. First, the partially critical junctures
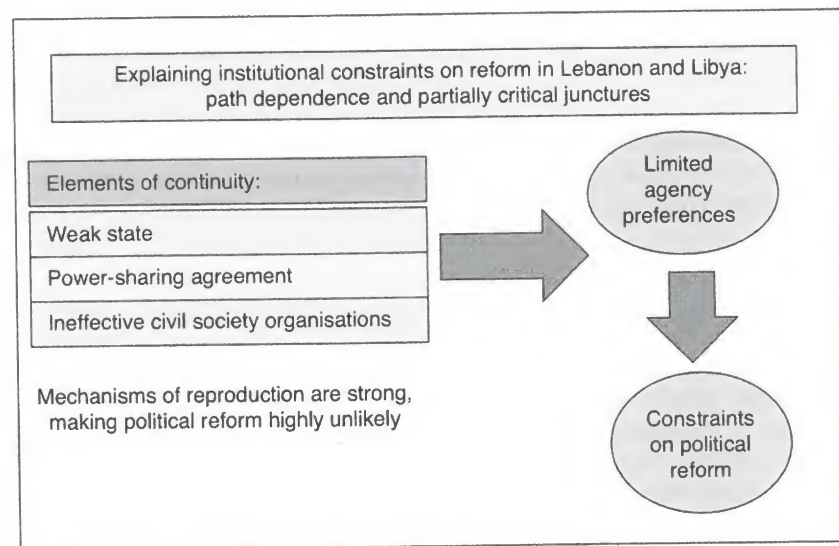
Figure 7.1 Theoretical framework.

approach accounts for and identifies how a limited change may take place. It therefore overcomes the binary approach of questioning whether or not political change has taken place. Secondly, explaining revolutions as partially critical junctures helps problematise the issues of change and continuity. While path dependence arguments often highlight continuity and constraints on change, they also lack detailed evidence to identify and explain limited change. Building on the school of historical institutionalism, this work coined the approach of *partial criticality* to understand and analyse such changes by looking at two cases of partial/failed reforms.

This approach also deepens our understanding of path dependence in Lebanon and Libya. According to Mahoney, power-centric explanations posit that "an institution can persist even when most individuals or groups prefer to change it, provided that an elite that benefits from the existing arrangement has sufficient strength to promote its reproduction".[11] Functional explanations state that once events lead to the selection of a particular institution, path dependence can predict self-reinforcing processes. The contribution that this work makes to these debates is an exploration of how the features of path dependency are reinforced and why new political types of civil society organisations are ineffective in reform.

Future research on transitions in the region can be advanced in three ways in the light of the evidence provided here. First, future research can detail how path dependence is articulated in other critical junctures. The features of path dependence facilitate a comparative approach, as they can be applied to other contexts within the MENA region. Potential case studies include Morocco (which witnessed some form of constitutional reform in 2010), Yemen (which went through an uprising and also has strong tribal identities), and Tunisia (which has a vibrant civil society sector and also underwent a period of reform after 2011). Such cases could help expand the analysis to include the various features that enable or disable political reform after a critical or partially critical juncture. Secondly, additional research could investigate the factors that would enable institutions to escape the lock-in of path dependence. Showing how partially critical junctures were shaped by institutional constraints revealed how reform pathways were challenged, but it also opened the door for questions about the possibility of avoiding such path-dependent outcomes.

Moreover, because the research for this work was empirically grounded, it can be used to inform policy prescriptions about transition and reform in Lebanon, Libya and the broader MENA region. The issue of supporting and promoting civil society must take past failed strategies by civil society into consideration. We continue to see efforts and resources poured into myriad "advocacy" campaigns, but this book has shown how advocacy alone is insufficient to influence the political processes. More effort should be directed towards the supporting of new political leadership that does not have its power and popularity based on of tribe, sect or ethnicity. These efforts might challenge traditional power structures and create political competition based on policies and programs that make reform more plausible. Without competition it is inevitable

that the traditional, armed, and most historically significant elites will continue to dominate political life. The thematic issues explored here can also be used to inform policymaking in connection with elections and constitutional processes. In Lebanon, it is likely that without reforms elections will be less and less important, as they are only an extension of sectarianism. In Libya, since the constitutional process disregarded the demands explored in this book, further violence, division and state deterioration have ensued. International support was crucial for regime change in these two countries, and also amplified the role and effect of demands made by the masses. The same international support can surely play a role in encouraging or discouraging reform in the next phase.

By revealing the intricacies of path dependence, the approach here can also profoundly inform future research on transition, democratisation, and civil society in the MENA region. The intricacies that inductive research helps identify would create new questions, based on observed events and comparisons. The hypotheses generated primarily from participant observation, and tested here through empirical tools, should be a vital starting point for both policy and academia to engage further with the persistence of old patterns that continue to characterise politics in the MENA region before and after revolutionary junctures.

Lastly, this work is inspiring me and others around me to revisit civil society activism and political reform practically in both countries. Since I completed my PhD I have embarked on a series of talks, both formal and informal, with friends and participants in this research from both countries. Lebanon has descended into a deep political deadlock and is experiencing the worst spill-over effects from the Syrian conflict, which has now entered its fifth year. Without a President-elect and with a parliament that has extended its own mandate, Lebanon continues to suffer internal violence and sectarian tensions. Notwithstanding Hezbolla's involvement in Syria, the rise of Islamic State militants across the region continues to threaten Lebanon's security and marginalises the role of state and formal military institutions in maintaining peace and stability. On the other hand, since my last trip to Libya, its warring factions have led the country into a full-fledged conflict over oil and natural resources, the right of self-determination, and clashes of identity. Despite efforts by the United Nations to instigate dialogue, a recent high-level official echoed my concerns that there is no real political will in Libya to resolve the conflict and that until we can find an incentive Libya might unfortunately suffer another civil war, as Lebanon did in 1975.

Both Lebanon and Libya are clearly not at a critical juncture that is in a reformist direction, given the potential that protracted conflict and deadlock will prevail. At the same time, as this book has argued, agency and agency preferences can be a factor in bringing about a certain juncture or a change. That is to say that even though average citizens might appear helpless in these situations, civil society actors may still be able to play a role in anticipation of or in preparation for the next juncture. The question is, how can civil society actors get past a juncture that was only partially critical?

In the wake of this research, I shared my findings informally with groups of activists who reflected on the following key issues that civil society actors need to consider for both Lebanon and Libya during this period of stalemate. First and foremost is timing. Activists need to make use of non-revolutionary times to connect together, reflect on what works and what does not work, and rethink their approaches to reform. It is not a coincidence that we see a rise in social innovation, job creation and social enterprises as a replacement to traditional charity and activism taking over the region and especially in Lebanon. This can be interpreted as one means that activists are using to generate income and solve social problems during a period of political "stalemate". Yet this should not deter them from thinking about their approach to political institutions once political life "returns to normal" and once another juncture approaches. Timing, no matter how painful the wait, provides activists with the chance to be better organised and prepared for the next juncture. Spontaneity is one feature of mass mobilisation, but activists also need to take the time to agree on reform options, alternatives, funding and relations with authority so that the demobilisation does not render them ineffective or too fragmented (due to internal squabbling sometimes) compared with other actors, as we saw in Lebanon and Libya's post-revolutionary junctures.

Second is strategy. Civil society actors must move away from the naiveté of advocacy and the expectation that politicians will yield to their demands simply because they are making those demands. Countless activists have told me "but we are right and what we are asking for is legitimate!" This might be true, yet politicians – as this research has shown – operate within institutional dynamics that keep their options limited and their leverage to implement "what is right" very weak in the face of strong path dependence. Future strategies should be more innovative in terms of who is included in creating public pressure, how sustainable these campaigns can be, and how convincing it is to the general public broadly and to political decision makers more specifically. Activists must build alliances from outside the normal sphere of actors to include perhaps business leaders, religious leaders, diaspora members and other influential actors that can create more legitimacy and pressure for the demands that civil society is articulating.

Lastly, activists have told me, after discussing the results, that the main issue they have learnt from our discussion is about access. In both campaigns, civil society actors were approaching formal political institutions and neglecting to work with the more powerful informal networks and actors that affect the performance of formal institutions. In Lebanon, for decades civil society operated within a "secular" elitist space that demanded reform from a parliament that takes orders either from foreign countries of from high-level zu'ama that are neither elected not officials in government. Lebanese civil society actors in the future would benefit from creatively devising mechanisms to understand and then to be able to convince or pressure informal decision makers into accepting reform options. Similarly in Libya, activists in the future should not limit their demands to formal legislatives and constituent

assemblies but to powerful religious, military and even foreign actors that can influence the decision of local political officials. Whilst these three post-research realisations are not the answers to how civil society actors can move past partially critical junctures, they do pave the way for a discourse and for a research that connects the dots together rather than envisioning civil society as a separate set of interactions from political processes and political decision making. In fact, the interactive and inductive approach employed here has proven to be an effective tool for both research and practical reflection on how linking together literature streams and real action can result in a more holistic approach to political reform, or at least a holistic approach to political transition that is neither overly utopian to the extent that it becomes naïve nor overly realistic that it becomes futile.

Photograph 7.1 shows the founding partners of Beyond Reform & Development (BRD), which is a social enterprise working on mainstreaming social entrepreneurship in education, government and communities across the Arab region.

Photograph 7.1 Author with founding partners of Beyond Reform & Development, a social enterprise that is working extensively with social entrepreneurs across the Arab region to find new ways to affect communities and politics.

Notes

1 See for instance Pierson, *Politics in Time*.
2 See Salamey, "Failing Consociationalism in Lebanon and Integrative Options". See "Doha Declaration", www.pogar.org/publications/other/lebanon/doha-agreement-08e.pdf (accessed 10 July 2014).
3 See Omar, "Libya: Legacy of Dictatorship".
4 Mahoney, "Path Dependence in Historical Sociology", 518.
5 See Pre-elections second report, Lebanese Association for Democratic Elections, and Corstange, "Vote Trafficking in Lebanon".
6 See Lijphart, "Non-Majoritarian Democracy: A Comparison of Federal and Consociational Theories".
7 Mahoney, "Path Dependence in Historical Sociology", 518.
8 Sawani and Pack, "Libyan Constitutionality and Sovereignty Post-Gadhafi".
9 Capoccia and Kelemen, "The Study of Critical Junctures", 348.
10 See Ottosson and Magnusson, *Evolutionary Economics and Path Dependence*, and Simon, *Reason in Human Affairs*.
11 Mahoney, "Path Dependence in Historical Sociology", 518.

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Annexes

Annex 1 – List of interviewees (in alphabetical order)

Libya case study interviews

1 Abdel Kaber Al Fakhakhry, Hanan, The Commission to Support Women in Decision Making, Tripoli, 21 June 2013.
2 Abu Sedra, Lamia, member of the Humanitarian Relief Coordination platform in Benghazi and later Director of the Centre for Civil Society, Tripoli, 11 February 2012.
3 Al Hayyali, Hicham, independent student activist, Tripoli, 24 June 2013.
4 Al Irfi, Hana', Head of the Women's Caucuses/Committee at the GNC, Tripoli, 20 June 2013.
5 Al Lafi, Abulozoum, Director of Fezzan Coalition/Gathering, Tripoli, 12 June 2013.
6 Alhuwarre, Nasser, Libyan Observatory for Human Rights, Tripoli, 13 February 2012.
7 Barkawi, Fariha, Darna Member of General National Congress, Tripoli, 22 June 2013.
8 Ben Halim, Amr, Chairman of the Board of the Forum for Democratic Libya, Tripoli 14 January 2013.
9 Bouchoucha, Haneen, television presenter and communications coordinator for the Forum for Democratic Libya, Tripoli, 19 January 2012.
10 Duncan, Pickard, constitutional specialist working from Libya with Democracy Reporting International, interview via skype, 2 December 2012.
11 El Qebaili, Ahmed, Ministry of Social Affairs representative, Tripoli 13 February 2012.
12 ElTayeb, Aya, H20 campaign for the constitution, interview via Skype, 4 December 2012.
13 Kaddora, Abdel-Kader, Libyan constitutional expert, Tripoli, 23 January 2013.
14 Lawgaly, Atiya, Minister of Culture and Civil Society, Beirut, 24 January 2012.
15 Mohammad, Hana', Independent activist (Teacher from Merzok), Tripoli, 21 June 2013.
16 Najem, Faraj, Board Member of the Forum for Democratic Libya and Director of the Africa Research Centre in Tripoli, interview with author, Tripoli, 7 February 2012.
17 Sagizly, Mustafa, Head of the Warriors Affairs Commission, Tripoli, 21 July 2012.
18 Styp-Rekowski, Adam, Head of Assistance to Building a Constitution UNDP program, Tripoli, 10 February 2012.
19 Zaroug, Mohammad, project coordinator for Nebbi f Dostoory, Forum for Democratic Libya, Tripoli, 21 June 2013.
20 Zoubair, Mohammad, Chairman of the Board for the Centre for Civil Society, Tripoli, 19 August 2012.

Confidential interviews in Libya

1 Constitutional expert with United Nations Support Mission in Libya (UNSMIL), Tripoli, 18 August 2013.
2 Libyan Transparency Association representative, Tripoli, 14 February 2012.
3 Libyan former member of Female Scouts Association, Tripoli, 13 February 2012.
4 General National Congress Member with Muslim Brotherhood, former political prisoner of 15 years, Tripoli, 15 January 2013.
5 Mother of assassinated prisoner in 1996, Member of Committee for the Search of Truth, Tripoli, 10 February 2012.
6 Rebel fighter in Misurata Katiba (battalion), Misurata, 9 February 2012.
7 Young woman who left Misurata during conflict, Misurata 9 February 2012.
8 Libyan diaspora member and university professor, London, 18 May 2011.
9 General National Congress Member, Tripoli, 17 June 2013.
10 Misurata Chamber of Commerce representative, Misurata, 6 February 2012.

Lebanon case study interviews

1 Abdalla, Samer, Nahwa el Muwatiniya program coordinator, Beirut 10 November 2011.
2 Abdel Samad, Omar, LADE Board Member, Beirut, 12 March 2013.
3 Abi Azar, Omar, founder of the movement to bring down the sectarian system in 2011 (*Iskat Al Nizam Al Taifi*), Beirut, 10 March 2012.
4 Abou Dayya, Marwa, General Coordinator at Nahwa el Muwatiniya, Beirut, 15 March 2011.
5 Antoun, Randa, professor and author of The National Strategy to Combat Corruption, Beirut, 15 November 2012.
6 Assad, Rony, coordinator of the Civil Campaign for Electoral Reform, Beirut, 5 August 2013.
7 Ayoubi, Belal, founder of collective of NGOs in Tripoli North of Lebanon, Beirut, 3 March 2013.
8 Chambers, Richard, Chief of Party of the International Foundation for Electoral Systems, Beirut, 5 May 2013.

9 Doumit, Gilbert, founder of Nahwa el Muwatiniya in 2004 and General Coordinator of 2009 electoral observation mission with LADE, interview with author, Beirut, February 2012.
10 Ekmekji, Arda, Member of Supervisory Commission for Electoral Campaigns, Beirut, 10 March 2011.
11 Franjieh, Sahar, Nahwa el Muwatiniya Board Member, Beirut 15 December 2011.
12 Hassan, Nabil, outreach coordinator for CCER, Beirut, 7 April 2013.
13 Maalouf, Joseph, Member of Parliament from 2009 – present, Beirut, 10 February 2014.
14 Matta, Aline, American Bar Association advisor on National Network for Access to Information, Beirut, 8 November 2011.
15 Menhall, Natalia, 2009 elections observer, Beirut, 7 April 2013.
16 Nassar, Yara, LADE founder and executive director, Beirut, 5 October 2011.
17 Salem, Paul, LADE Chairman of the Board in 1996 and spokesperson, Beirut, 7 November 2010.

Confidential interviews in Lebanon

1 Electoral campaign team member of candidate in South of Lebanon district elections of 2009, Beirut, 3 February 2012.
2 Electoral monitoring campaign representative in office West Bekaa, Beirut, 8 April 2013.
3 Electoral monitoring campaign representative in the Metn district, Beirut, 7 April 2012.
4 Electoral monitoring campaign representative in the North district, Beirut, 5 April 2012.
5 Electoral monitoring office coordinator in Akkar, Beirut, 10 April 2013.
6 Leading Lebanese journalist covering LADE observation mission, Beirut, 10 April 2012.
7 Representatives of youth factions of the following political parties: Syrian Socialist National Party, Lebanese Forces, Future Movement, Free Patriotic Movement, Tashnag Party, Amal Movement, Al Marada, Hezbollah, Lebanese Democratic Party, Kataeb Party, National Liberal Party, Democratic Left, and Democratic Renewal, Beirut April and May 2013.

Annex 2 – Libya survey questions

Translated from and administered in Arabic

This aim of this survey is to collect data on citizen activism and constitution development in Libya. Results will be used for PhD and research purposes by Carmen Geha at the University of St. Andrews in Scotland. Participation in this survey is voluntary.

Demographic and socio-economic information:

I   Sex:
   □ Male
   □ Female

II   Age:
   □ Under 17
   □ 18 to 25
   □ 26 to 35
   □ 36 to 55
   □ 56 and above

III   Region:
   □ Southern Region, please specify the city: _____
   □ Western Region, please specify the city: _____
   □ Eastern Region, please specify the city: _____

IV   Education level:
   □ Illiterate
   □ Primary education
   □ Complementary education
   □ Secondary education
   □ Undergraduate
   □ Graduate
   □ Post-graduate
   □ Vocational training

V   Occupation:
   □ Unemployed
   □ Part-time worker
   □ Full-time worker
   □ Student
   □ Daily worker
   □ Other, please specify:

I The first thing that comes to your mind when you hear the term "civil society" is:

_____
_____

II How do you perceive the contribution of Libyan civil society today?
   □ Not effective
   □ Somehow effective
   □ Highly effective

III Do you think the Libyan citizen can play a role in state building in Libya today?
   □ Yes
   □ No
   □ I don't know

IV How are you personally participating in the political process in Libya?
_____
_____

V Why is it important for citizens to participate in the political process?
_____
_____
_____

VI How can Libyan non-governmental organisations have a bigger role in the political process?
_____
_____

VII What are priorities that civil society should work on in Libya?
☐ Education
☐ Military
☐ Business
☐ Raising awareness
☐ Justice
☐ Elections
☐ Natural resources
☐ Immigration
☐ Constitution
☐ Accountability
☐ Media
☐ Dialogue
☐ Other, please specify: _____

VIII To what extent are Libyan decision-makers open to feedback from citizens?
☐ Very low
☐ Low
☐ Medium
☐ High
☐ Very High

IX How do citizens give feedback to politicians?
_____
_____

X Do you think the government should have a role in regulating the work of non-governmental organisations?
☐ Yes
☐ No
☐ I don't know

XI If your answer to the previous question was yes, how do you think this can be done?
☐ Providing funds
☐ Licensing
☐ Security protection
☐ Other, please specify: _____

XII What are the challenges facing citizen activism in Libya?
☐ Lack of funds
☐ Lack of coordination between different organisations
☐ Security situation
☐ Lack of widespread national efforts
☐ Other, please specify: _____

XIII How would you measure the level of influence you have over political life?
☐ No influence
☐ Medium influence
☐ High influence

XIV Why do you assess this level of influence?
_____
_____

XV In your opinion, do you think the Libyans have the opportunity to participate in political life?
☐ Yes   ☐ No   ☐ I don't know

XVI If your answer to your previous question was yes, please explain how?
☐ Running for the local elections
☐ Running for the upcoming parliamentary elections
☐ Demonstrations
☐ Civil society activism
☐ Other, please specify: _____

XVII In your opinion, what is the main role of the constitution?
_____
_____

XVIII What are the top five priorities in order of importance that you wish to see addressed in the constitution?
☐ Women's rights   ☐ Model of governance
☐ Religion   ☐ Shari'a law
☐ Foreign Affairs   ☐ Citizenship
☐ Natural resources   ☐ Security
☐ Rotation over power   ☐ Political Participation
☐ Economy   ☐ Taxation
☐ Justice and reconciliation ☐ Language
☐ Other, please specify: _____

XIX   Do you think the average Libyan has a role in the shaping the new constitution?
- ☐ Yes
- ☐ No
- ☐ I don't know

XX   If your answer to the previous question was yes, what are possible ways for you to participate in this process?

_____

_____

XXI   Why is it important for you to participate in a dialogue around the constitution?

_____

_____

XXII Why is it important for your particular region/town to participate in the constitution?

_____

_____

Annex 3 – Lebanon electoral observation methodology

Lebanese association for democratic elections 2009 monitoring operation

I Pre-elections monitoring methodology

Indicators for election observation 2009

LADE developed 267 indicators for the pre-election period based on the electoral law No. 25/2008, a review of international monitoring criteria; and decrees issued by the Ministry of Interior and Municipalities, that were as follows:

- Election Administration (Ministry of Interior, Supervisory Commission for Electoral Campaigns (SCEC), voter registration committees, municipalities, security bodies, and judicial authorities): **181 indicators**

- Electoral campaigns of candidates, lists, and political parties: **41 indicators**
- Media Performance: **27 indicators**
- Voters Behavior: **18 indicators**

Monitoring mechanisms: documentation tools, validation, and weekly reports

The monitoring process and techniques are based on documentation, validation, and continuous and periodic methodical reporting. Therefore, three types of tools were developed: documentation tools, validation tools, and reporting tools.

1   Documentation tools included:
- *Documentation of electoral activities*: All electoral activities including: campaigning, media, advertising, and electoral expenditure during festivals and events.
- *Documentation of violations:* 30 district offices collected the violations.
- *Monitoring voter performance*: Types of enquiries made by citizens in relation to the electoral process, types of violations recorded, and extent of citizen compliance with the law were documented.
- *Documentation of E-Day violations*: During the E-Day, violations are recorded using E-Day violation forms reflected in codes used by the SMS system.

2   Validation tools:
- *Witnesses evidence* After the documentation of any violation, it is analysed by LADE's team before signatures of witnesses are collected.
- Audio, visual, or written evidence

Types of violations

The following presents a sample of the types of violations that could be observed at local level and could be documented and audited.

Media and electoral advertising

- Electoral advertising and campaigning in unauthorised media
- Campaigning outside the places authorised by the municipality and/or local authorities
- Airing or publishing any provocative campaigning material or incitement discourse instigates violence or sectarian sedition.
- Employing one candidate's advertising space for the interest of another candidate or political party

Pressure on voters

- Interference of public officials and civil servants or security institutions, mayors, or governors in favour of a certain candidate or political entity.
- Physical threats, or threats to economic, social, or moral interests of voters
- Promises to perform services to voters in return for voting for a certain candidate or a political entity
- Seizure of IDs in return for voting for a certain candidate or a political entity.

Campaign spending

- Payment of any expenditure or service provision that exceeds the ceiling of electoral expenditure to any local entity, particularly if it were never paid over the past three years
- Payment of any expenditure for electoral campaigning that exceeds the electoral ceiling: festival, advertising, offices, and so on
- Receiving funding or grants from non-Lebanese sources.

Use of public utilities for electoral purposes

- Electoral activities in a public institution, school, municipality, place of worship, and so on
- Provision of any services or resources for electoral interests

Other violations

- Payment of direct bribes to voters or through mediators
- Defamation of candidate
- Breach of campaign silence period from 12:00 a.m. on Friday, 5 June to 07:00 p.m. on Sunday, 7 June.
- Disrespect of candidacy period or withdrawal of candidacy

II LADE Election Day Monitoring Reporting Strategy

LADE developed a deployment strategy for observers and rapid reporting system that provides the best range of information about the election.

LADE deployed 3,500 observers covering all electoral districts:

1 Mobile teams: Mobile teams of 2,000 observers will be assigned to an area and will roam between polling centres in that area. They captured information from the polling stations that they visit. These mobile teams will be distributed proportionally around the country by the number of polling stations.
2 National Sample: LADE drew a national random sample of polling stations. A sample of 500 stable observers covered the selected polling stations.
3 Targeted Districts: 1,000 observers will be deployed to polling stations in areas that LADE expected to be the most contentious.

LADE issued reports on three types of information on Election Day:

1 Critical incidents: LADE reported incidents that would cause a serious questioning of the results of the polling station. All critical incidents were logged in on a form and appeared on LADE website.
2 Qualitative information about the character of voting at polling stations. This included indications of irregularities and other information of interest to the process of the elections.
3 Polling station results: LADE observed and reported on the counting of ballots.

LADE's communications system was designed to collect and process the most relevant information as quickly as possible through Election Day. SMS messaging offered the quickest and most efficient means of collecting information. In addition, LADE set-up a call centre with a hotline to receive calls from its observers and citizens at large.

Monitoring criteria on Election Day included:

✓ Implementation of electoral system reforms
✓ Assessment of the election against international standards
✓ Election administration: Ministry of Interior and SCEC
✓ Parties and candidates campaign
✓ Media coverage
✓ Voting, counting and tabulation of results
✓ Complaints and appeals

Annex 4 – Note on transliteration

Transliteration in this thesis follows the *International Journal of Middle East Studies* (IJMES) style guide. Words that are included in the IJMES word list have been spelled as they appear on the list without italicisation or diacritical marks. Words referring to prominent places and names of prominent figures were not treated as a technical term but were written in accordance with the common English spelling of the word (such as zu'ama or ulama or shari'a).

Additional names of places and people are spelled as they are pronounced in colloquial Arabic within the contexts of Lebanon and Libya.

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Page numbers in *italics* denote tables, those in **bold** denote figures.